

MEETING NOTICE AND AGENDA

MANSFIELD PLANNING AND ZONING COMMISSION

Regular Meeting

Monday, May 7, 2012 ▪ 7:15 PM

or upon completion of Inland Wetlands Agency Meeting

Audrey P. Beck Municipal Building ▪ 4 South Eagleville Road ▪ Council Chambers

1. Call to Order

2. Roll Call

3. Approval of Minutes

- a. April 4, 2012 Meeting
- b. April 10, 2012 Field Trip

4. Zoning Agent's Report

- Monthly Activity Update
- Enforcement Update
- Other

5. Public Hearing

Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA), Pleasant Valley Commercial/Agriculture (PVCA) Regulations and Research and Development/Limited Industrial Zone, (PZC File #907-37)

Memo from Director of Planning and Development

6. Old Business

- a. **Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA), Pleasant Valley Commercial/Agriculture (PVCA) Regulations and Research and Development/Limited Industrial Zone, (PZC File #907-37)**

- b. **8-24 Referral Re: Healey License Request at Common Fields**
Memo from Director of Planning and Development

- c. **Subdivision Design Process Submittal, Beacon Hill Estates Section 2, PZC File #1214-3 Eagleville Development Group LLC**
Memo from Director of Planning and Development

- d. **Subdivision Design Process Submittal, Bovino Manor, 149R Conantville Road, PZC File #1308**
Memo from Director of Planning and Development

- e. **Other**

7. New Business

- a. **Special Permit for Cut/Fill Activities, Merrow Road Corn Maze, 3 Merrow Road, Mason Brook LLC/Christopher Kueffner, owner/applicant (PZC File #1309)**

- b. **Other**

Binu Chandy (A) ▪ JoAnn Goodwin ▪ Roswell Hall III ▪ Katherine Holt ▪ Gregory Lewis ▪ Peter Plante
Barry Pociask ▪ Kenneth Rawn ▪ Bonnie Ryan ▪ Vera Stearns Ward (A) ▪ Susan Westa (A) ▪ Vacant

8. Reports from Officers and Committees

- a. **Chairman's Report**
- b. **Regional Planning Commission**
- c. **Regulatory Review Committee**
- d. **Planning and Development Director's Report**
- e. **Other**

9. Communications and Bills

- a. CT Law Tribune Article: "Ganja in the Land of Steady Habitats"
- b. 4/11/12 ZBA Decision Notice
- c. Michael Beal Resignation
- d. DOT - WRTD Bus Facility
- e. Spring 2012 CFPZA
- f. CLEAR Workshop Notice

10. Adjournment

DRAFT MINUTES
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting
Monday, April 2, 2012
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), M. Beal, R. Hall, K. Holt, G. Lewis, P. Plante, B. Pociask,
K. Rawn, B. Ryan
Alternates present: B. Chandy, V. Ward, S. Westa
Staff Present: Linda Painter, Director of Planning and Development

Chairman Goodwin called the meeting to order at 7:15 p.m., and appointed Chandy to act if a member is disqualified.

Holt MOVED, Ryan seconded, to add to the agenda under New Business, discussion regarding potential changes to the Plan of Conservation and Development and Zoning Regulations as part of the water supply Environmental Impact Evaluation. MOTION PASSED UNANIMOUSLY.

Minutes:

3-19-12 Minutes- Hall MOVED, Ryan seconded, to approve the 3/19/12 meeting minutes as written. MOTION PASSED UNANIMOUSLY. Ward and Beal noted that they listened to the recording of the meeting.

Zoning Agents Report: Noted.

Old Business:

- a. **Proposed Revisions to Zoning Subdivision Regulations Regarding Bonding**
Linda Painter, Director of Planning and Development, updated the PZC on the seminar she attended regarding Public Act 11-79 and briefly summarized how other municipalities are addressing the requirements of the revised statute. Painter said she will be discussing options with the Mansfield Town Attorney and Attorney Mark Branse and will report back to the Regulatory Review Committee at its next meeting.
- b. **Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA), Pleasant Valley Commercial/Agriculture (PVCA) Regulations and Research and Development/Limited Industrial Zone, (PZC File #907-37)**
Tabled-Public Hearing Scheduled for May 7, 2012

New Business:

- d. **8-24 Referral Re: Healey License Request at Common Fields**
After extensive discussion of the draft motion, the Commission agreed to table this item to the 5/7/12 meeting.
- i. **Discussion regarding potential changes to the Plan of Conservation and Development and Zoning Regulations as part of the water supply Environmental Impact Evaluation**
David Murphy, P.E., Senior Hydrogeologist with Milone & MacBroom, Inc., discussed the Water Supply Environmental Impact Evaluation (EIE); the potential need for revisions to the Plan of Conservation and Development, Zoning and Subdivision Regulations; and the role of the Planning and Zoning Commission in these processes.
- a. **Revised Modification Request, Revision to BAE, 87 Jonathan Lane, PZC File #1113-3**
B. LeClair, owner/applicant
Holt MOVED, Hall seconded, that the Planning & Zoning Commission approve the proposed revision to

the Building Area Envelope on Lot 21 of the Wild Rose Estates Subdivision (87 Jonathan Lane), as described in the 9/16/11 request and shown on a plan dated 3/23/12, because it will not affect neighboring properties, natural or manmade features or the overall character of the subdivision. This action shall be noticed on the Land Records. MOTION PASSED with all in favor except Lewis and Goodwin who were opposed.

b. Subdivision Design Process Submittal, Beacon Hill Estates Section 2, PZC File #1214-3 Eagleville Development Group LLC

This item was added to the Field Trip Agenda for 4/10/12. The field trip was scheduled to begin later than usual, at 3:30 p.m., to promote maximum attendance. It was noted that another Pre-Application Subdivision was submitted for 149 Conantville Road, which was also added to the Field Trip Agenda.

c. Request for 90-Day Filing Extension, Listro Property, Stearns/Candide Lane, PZC File #1296

Plante MOVED, Holt seconded, that the Planning and Zoning Commission, pursuant to Section 6.5 of the Subdivision Regulations, grant a second ninety-day extension for filing final subdivision plans for the Listro Re- Subdivision (File #1296), expiring on July 12, 2012. MOTION PASSED UNANIMOUSLY.

e. 8-24 Referral Re: FY 2013 Capital Improvement Budget

Holt MOVED, Plante seconded, that the PZC approve, subject to the condition below, the proposed 2012-13 Capital Improvement Budget.

Several items are land use-regulated and may require PZC and/or IWA approvals before implementation. The PZC respectfully requests that the departments involved with land use projects coordinate plans with the Director of Planning and Development and Inland Wetlands Agent and that the Commission/Agency be given adequate time to thoroughly review and act upon final plans for all projects that require PZC or IWA approval. MOTION PASSED UNANIMOUSLY.

f. 8-24 Referral Re: Storrs Center Utility Easement

Hall MOVED, Holt seconded, that the PZC report to the Town Council that the PZC recommends that the Town Manager be authorized to grant the proposed utility easement to Connecticut Light and Power as it is consistent with Mansfield's Plan of Conservation and Development and the approved Storrs Center Master Plan. MOTION PASSED UNANIMOUSLY.

g. FY2012-2013 PZC/IWA Operating Budget

Holt MOVED, Hall seconded, to authorize the Chair to submit a letter of support to the Town Council for the proposed FY2012-2013 PZC/IWA Operating Budget (Account 52100). MOTION PASSED UNANIMOUSLY.

h. Draft Workplan for HUD Community Challenge Grant

Linda Painter, Director of Planning and Development, updated the Commission on the status of the HUD Community Challenge Grant and reviewed the key components of the draft work plan.

Reports from Officers and Committees:

It was noted that the next Regulatory Review Committee meeting will be on Wednesday, April 11th at 1:15 p.m. in Conference Room C, and that the Field Trip will be on April 10th at 3:30.

Communications and Bills: Noted. Reminder: April 16th Regular Meeting has been cancelled.

Adjournment: The meeting was adjourned at 9:10 p.m. by the chairman.

Respectfully submitted,

Katherine Holt, Secretary

DRAFT MINUTES

MANSFIELD PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
CONSERVATION COMMISSION
FIELD TRIP
Special Meeting
Tuesday, April 10, 2012

Members present: J. Goodwin (Chairman), M. Beal, K. Holt, G. Lewis, P. Plante,
B. Pociask, B. Ryan
Alternates present: B. Chandy, V. Ward, S. Westa
Staff present: G. Meitzler, Wetlands Agent/Assistant Town Engineer
L. Painter, Director of Planning and Development
C. Hirsch, Zoning Agent
J. Kaufman, Parks and Recreation Coordinator (Items 2 & 3)
Others present: S. Lehman, Conservation Commission
V. Wetherell, Open Space Preservation Committee

The field trip began at 3:30 p.m.

1. L. Sabatelli - 306 Stearns Road – Shed in buffer
File #W1493
Members observed current conditions, location of shed and site characteristics. No decisions were made.
2. Bovino Manor, Section 2, 149R Conantville Rd, - pre-subdivision application
PZC File #1308
Members observed current conditions and site characteristics. No decisions were made.
3. Beacon Estates, Section 2, Mansfield City Road - pre-subdivision application
PZC File #1214-3
Members were met on site by Tom Boyle, Frank Halle, John Ianni, Ed Pelletier and John Alexapolous. Members observed current conditions, and site characteristics. No decisions were made.

The field trip ended at approximately 5:15 p.m.

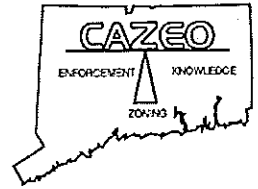
Respectfully submitted,

K. Holt, Secretary

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Town of Mansfield



CURT B. HIRSCH
ZONING AGENT
HIRSCHCB@MANSFIELDDCT.ORG

AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

Memo to: Planning and Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: May 2, 2012

MONTHLY ACTIVITY for April, 2012

ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Mansfield Village	91 Chaffeeville Rd, Lot 8	replace mobile home
Sabatelli	306 Stearns Rd.	garage addition
LeClair	87 Jonathan La.	12 x 16 shed
Town of Mansfield	Village Street	construction and site work
Leach	83 Jonathan La.	12 x 16 shed
Pocius	109 Woods Rd.	18 x 36 above pool
Natchaug Hospital	173 Storrs Rd.	warehouse & site work
McMahon	163 Highland Rd.	10 x 14 shed

CERTIFICATES OF COMPLIANCE


Sauve Consulting	162 Puddin La.	deck
Manning	31 Higgins Hwy.	shed
Select Physical Therapy	personal service use	new tenant
Gerent	197 Pleasant Valley Rd.	3 sheds
Windham Water Works	174 Storrs Rd.	photovoltaic system
Spencer	28 Deerfield La.	shed
Ward	45 Spring Hill Rd.	enclose porch

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TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission

From: Linda M. Painter, AICP, Director of Planning and Development 

Date: May 3, 2012

Subject: May 7, 2012 Public Hearing on PZC-proposed revisions to the PVRA, PVCA and RDLI Regulations (3/5/12 draft), File #907-37

General

Please find attached a copy of the legal notice for the May 7th Public Hearing. This notice provides a summary of the proposed revisions to the Zoning Regulations. At Monday's meeting, I intend to make a brief presentation outlining the proposed revisions and rationale for considering the proposed revisions. I also will address any questions from Commission members and the public. After receiving public comments, the PZC will have to determine whether to close or continue the Public Hearing process. Once the Hearing is closed, only technical assistance from staff may be received by the Commission. Current state statutes authorize the PZC to modify the proposed revisions prior to adoption, but to minimize any potential procedural issues, an independent Hearing should be considered for any significant alterations.

Pursuant to statutory requirements, the proposed revisions have been referred to the Town Clerks of neighboring Towns and to the WINCOG Regional Planning Commission, and have been filed with the Mansfield Town Clerk. The proposed revisions also have been posted on the Town's web site, mailed to all property owners within the area of proposed rezoning and within 500 feet of the area of proposed rezoning. Notice also has been provided to all individuals who have signed up for the Town's Registry pursuant to recently adopted state statutes. Referrals also have been sent to the Town Attorney, Town Council, Zoning Board of Appeals, Open Space Preservation Committee, Conservation Commission, Agriculture Committee and other staff members. As of 12:00 p.m. on May 3, 2012, comments have been received from the Town Attorney and the Open Space Preservation Committee. Comments are expected from the WINCOG Regional Planning Commission. All communications received prior to 4:30 p.m. on Monday, May 7th will be copied and distributed to PZC members.

As with any zoning regulation amendment, the PZC must weigh anticipated public and private benefits versus anticipated public and private costs. All zoning districts and municipal land use regulations should be designed to serve a community need while protecting the public's health, safety, convenience and property values. The Commission has the legislative discretion to determine what is best for the Town as a whole, and zoning districts and land use regulations can and should be modified to meet changing circumstances or address a recognized public need. Sections 8-2 and 8-25 of the CT General Statutes and Articles I and XIII of our Zoning Regulations provide information on the legislative basis, procedure and criteria for considering Zoning Map and regulations revisions. Collective reasons for PZC legislative actions should be clearly documented, and Section 8-3.a of the State Statutes requires the

Commission to make a public finding regarding the consistency of the proposed revisions with respect to the Municipal Plan of Conservation and Development.

Background and Overview of Proposed Changes

The proposed zoning regulation revisions were initially drafted as part of settlement discussions with the Hussey family, property owners that had challenged the adoption of the existing PVRA and PVCA zones and regulations in Superior Court. After meeting with the Husseys and their attorney during the summer and fall of 2011, staff prepared revisions to the regulations in response to their concerns. While we were not able to come to agreement during the settlement discussions, the Commission felt that the changes proposed during the settlement process were improvements to the regulations, and as such, were appropriate to move forward to public hearing. In February 2012, the Commission discussed and refined the proposed changes and voted to schedule a public hearing for May 7, 2012.

Specifically, the proposed revisions:

- **Streamline the review process for a change in use in the PVCA and RDLI zones.** Existing regulations (Article VII, Section A.4) required any change in use in those zones to be approved by the Planning and Zoning Commission; the proposed changes allow changes in use to be approved by the Director of Planning and Development, or referred to the Commission at the Director's discretion.
- **Clarify the types of auto repair operations allowed in the PVCA zone through Special Permit.** The current regulations prohibit auto salvage operations (Article VII, Section U.3.h); however, the language could be clearer. The revision in this section is primarily grammatical to clarify the intent.
- **Eliminate the minimum lot size required in the PVRA and PVCA zones.** Existing regulations (Article VIII, Schedule of Dimensional Requirements) require a minimum lot size of 25 acres. However, this minimum lot size far exceeded minimums in other districts. Many design development districts have no minimum lot size. As other provisions for the PVRA and PVCA districts provide for master planning to ensure cohesive development as well as special permit review for specific uses, the minimum lot size requirement has been eliminated as part of the proposed revisions.
- **Establish minimum front, side and rear setbacks.** Existing regulations (Article VIII, Schedule of Dimensional Requirements) do not contain any specific setback requirements; the PZC is allowed full discretion in establishing the setbacks as part of the site development process. While the PZC will still have discretion where a lot abuts another property in a Design Development District pursuant to Article X, Section A.4, the proposed setbacks will provide initial guidance to developers and a measure of certainty to adjacent owners as to what they can expect.
- **Reduces the amount of prime agricultural acreage to be preserved.** Existing regulations authorize the Commission to require up to 50% of the prime agricultural acreage be preserved on a property proposed for development (Article X, Sections A.9.b and A.10.f). The proposed revision would change this requirement to require up to 40% of the prime agricultural acreage to be preserved. This provision is consistent with the cluster development provisions in both state statute and the Mansfield Subdivision Regulations. Chapter 8-18 of Connecticut General Statutes define cluster development as 'a building pattern concentrating units on a particular portion of a parcel so that at least one-third of the parcel remains as open space to be used exclusively for recreational, conservation and agricultural purposes except that nothing herein shall prevent any municipality from requiring more than one-third open space in any particular cluster development.' The purpose of the agricultural land preservation provision is to cluster development in a way that preserves prime agricultural soils, similar to the cluster provisions in the Mansfield Subdivision Regulations,

which allow the Commission to require up to 40% of the land to be subdivided be preserved as open space, park or playground land to be used exclusively for recreational, conservation and/or agricultural purposes (Section 13.1, Mansfield Subdivision Regulations). The proposed change will ensure that the provisions for agricultural land preservation in the PVRA and PVCA zones are consistent with the open space preservation requirements for cluster subdivisions.

- **Clarifies criteria and process for approval of agricultural areas to be preserved.** The proposed revisions to Article X, Sections A.9.b and A.10.f clarify that the Commission has final approval over the prime agricultural land to be preserved, that the area to be preserved can be on other land owned by the applicant in the Pleasant Valley area, and adds a requirement that consideration be given to whether agricultural use of the property would conflict with existing and planned uses on adjacent properties when determining the location of the area to be preserved. The changes also clarify that while transfer of the preserved land to the Town or another organization is not required, the Commission does have the ability recommend or facilitate such a transfer.
- **Allows for additional density in exchange for provision of affordable housing.** The proposed changes Article X, Section A.9.c eliminate the requirement for affordable housing and replace it with an incentive to provide affordable housing in exchange for additional density.
- **Clarifies provisions on Age-Restricted Housing.** Current regulations (Article X, Section 9.e) encourage age-restricted housing developments in the PVRA zone; the proposed change eliminates the word encourage and instead states that they are specifically allowed.
- **Specifically includes preservation of agricultural land in calculations of open space/recreation requirements for multi-family developments.** Existing regulations (Article X, Section 9.f) allow the Commission to consider the amount of land preserved for agricultural use when determining open space/recreation facility requirements, but specifically allow the Commission to require recreational facilities in addition to the agricultural preservation. The proposed revision limits the requirement for additional open space/recreation facilities to that which is needed to satisfy the 600 square feet per unit if the amount of prime agricultural land does not satisfy the requirement. (Note: this section was mis-numbered (c) in the March 5, 2012 draft)
- **Establishes a threshold for preparation of a conceptual master plan.** Existing regulations (Article X, Sections A.9.g and A.10. g) allow the Commission to require the submission of a conceptual master plan for the entire area in association with a Special Permit application. The proposed changes clarify that this requirement will not be applied to an initial subdivision of the property under common ownership at the time the regulations were adopted for the purpose of creating one additional lot.
- **Reduces the setback along Pleasant Valley Road from 500 feet to 200 feet.** Article X, Sections 9.g and 10.g currently require a 500 foot setback along Pleasant Valley Road. The proposed changes reduce this setback to 200 feet, which will meet the original purpose and intent while providing greater flexibility in the location of agricultural land to be preserved.

Review Considerations

In reviewing the proposed regulation revisions, a number of factors must be considered. These factors include policies, objectives and recommendations contained in Mansfield's Plan of Conservation and Development and state and regional land use plans; physical characteristics, including soils, slopes, wetlands and watercourses; the location and capacity of Mansfield's infrastructure (roads, public sewer and water systems, public transit, etc.), the nature and character of neighboring land uses and legal appropriateness. Article XIII, Section D includes or references additional information regarding approval considerations.

It is important to note that the proposed revisions are adjustments to the existing regulations; they do not involve a substantial change in approach or policy. As such, the analysis prepared by Greg Padick in his June 3, 2010 memo regarding the adoption of the PVRA and PVCA regulations and their consistency with the Plan of Conservation and Development, relationship to State and Regional Plans, implementation of various goals and policies encouraging higher density development in areas with access to public infrastructure and other factors considered during the initial adoption of the regulations is also applicable to the proposed revisions. Rather than restate this analysis, a copy of his memo is attached for reference.

Summary

The proposed regulation revisions present policy issues for the Commission's legislative discretion. The PZC must determine that the proposed revisions are legally appropriate, promote goals, objectives and recommendations contained in municipal, regional and state land use plans and in general promote the public's health, safety and welfare. The statutory provisions of Sections 8-2, 8-18 and 8-25 and the regulatory provisions of Article XIII, Section D of Mansfield's Zoning Regulations provide a legal basis and procedural guidance for making this determination. Pursuant to Section 8-3 (a) of the State Statutes, any approved revisions must include a finding with respect to compatibility with the Mansfield Plan of Conservation and Development. The PZC must consider all communications received during the Public Hearing process, but once the Hearing has been closed, no additional input shall be received except for technical assistance from staff. The PZC has the right to modify the proposed revisions prior to adoption, but any significant alterations should be presented through an additional Public Hearing review process.

Based on the information reviewed to date, the proposed zoning regulation revisions will advance goals, objectives and recommendations contained in Mansfield's Plan of Conservation and Development, promote the public's health, welfare and safety, and enhance land use planning efforts in Mansfield. The regulations for the Pleasant Valley area have been the subject of three previous public hearing review processes and many comments regarding the most appropriate zoning/regulations for the subject area have been submitted for PZC consideration. The Commission and staff have carefully considered this area's physical characteristics and have made a concerted effort to balance the conservation of important agricultural and scenic assets with appropriate residential and commercial development opportunities that are afforded by public sewer and water availability that is only present in a very limited portion of Mansfield. The proposed revisions are part of a balanced and comprehensive land use approach that is documented in Mansfield's 2006 Plan of Conservation and Development.

Recommendation

Adoption of the proposed revisions is recommended based on their consistency with the statutory provisions of Sections 8-2, 8-18 and 8-25 of Connecticut General Statutes and the following approval considerations required by Article XIII, Section D of the Mansfield Zoning Regulations:

- The proposal is complete and contains all required application information.
- The proposal is consistent with the goals, policies and recommendations contained within the Mansfield Plan of Conservation and Development, specifically policy goals 1, and 2 (page 4) and Part II recommendations associated with policy goal 1, objectives 1a (page 34), 1b (pages 35 to 37), 1d (page 38 and 39), policy goal 2, objectives 2a (page 41 and 42), 2c (page 45 and 46) and

2d (page 46), and policy goal 3, objective 3a (page 48). (These pages are attached for reference).

This finding shall be stated on the record pursuant to Section 8-3a of the Connecticut General Statutes.

- The proposal is consistent with the expression of regulatory intent and purpose contained in the provisions of Article I of these regulations and Section 8-2 of the Connecticut General Statutes, as amended.
- The proposal is appropriately worded and legally sound and comprehensive and consistent with respect to other regulatory provisions, as described in the letter from the Town Attorney dated May 2, 2012.

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TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Planning & Zoning Commission
From: Gregory J. Padick, Director of Planning
Date: June 3, 2010
Re: 6/7/10 Public Hearing on PZC-proposed revisions to the Zoning Map and Zoning and Subdivision Regulations (4/14/10 draft), File #907-33



General

Please find attached a copy of the legal notice for the June 7th Public Hearing. This notice provides a summary of the proposed revisions to the Zoning Map and Zoning Regulations. At Monday's meeting, I intend to make a brief presentation outlining the proposed revisions and rationale for considering the proposed revisions. I also will address any questions from Commission members and the public. After receiving public comments, the PZC will have to determine whether to close or continue the Public Hearing process. Once the Hearing is closed, only technical assistance from staff may be received by the Commission. Current state statutes authorize the PZC to modify the proposed revisions prior to adoption, but to minimize any potential procedural issues, an independent Hearing should be considered for any significant alterations.

Pursuant to statutory requirements, the proposed revisions have been referred to the Town Clerks of neighboring Towns and to the WINCOG Regional Planning Commission, and have been filed with the Mansfield Town Clerk. The proposed revisions also have been posted on the Town's web site, mailed to all property owners within the area of proposed rezoning and within 500 feet of the area of proposed rezoning. Notice also has been provided to all individuals who have signed up for the Town's Registry pursuant to recently adopted state statutes. Referrals also have been sent to the Town Attorney, Town Council, Zoning Board of Appeals, Design Review Panel, Open Space Preservation Committee, Conservation Commission, Agriculture Committee and other staff members. As of 1:00 p.m. on 6/3/10, comments have been received from the WINCOG Regional Planning Commission, the Town Attorney and the Conservation Commission. Comments are expected from the Agriculture Committee and Open Space Preservation Committee. All communications received prior to 4:30 p.m. on Monday, June 7th will be copied and distributed to PZC members.

As with any Zoning Map or regulation amendment, the PZC must weight anticipated public and private benefits versus anticipated public and private costs. All zoning districts and municipal land use regulations should be designed to serve a community need while protecting the public's health, safety, convenience and property values. The Commission has the legislative discretion to determine what is best for the Town as a whole, and zoning districts and land use regulations can and should be modified to meet changing circumstances or address a recognized public need. Sections 8-2 and 8-25 of the CT General Statutes and Articles I and XIII of our Zoning Regulations provide information on the legislative basis, procedure and criteria for considering Zoning Map and regulations revisions. Collective reasons for PZC legislative actions should be clearly documented, and Section 8-3.a of the State Statutes requires the Commission to make a public finding regarding the consistency of the proposed revisions with respect to the Municipal Plan of Conservation and Development.

It is important to note that some of the proposed regulation revisions are directly related to the proposed zone changes and need to be acted upon in conjunction with each other. The explanatory notes added at the end of each proposed revision identify revisions that are interrelated. The explanatory notes are not part of the regulation revisions.

Review Considerations

In reviewing the proposed Zoning Map and regulation revisions, a number of factors must be considered. These factors include policies, objectives and recommendations contained in Mansfield's Plan of Conservation and Development and state and regional land use plans; physical characteristics, including soils, slopes, wetlands and watercourses; the location and capacity of Mansfield's infrastructure (roads, public sewer and water systems, public transit, etc.), the nature and character of neighboring land uses and legal appropriateness. Article XIII, Section D includes or references additional information regarding approval considerations. I will briefly review some of the factors and provide some background on the preparation of the draft revisions. I have divided my review comments into 2 sections "Pleasant Valley Re-Zonings and associated Zoning Regulation Revisions" and "Other Zoning and Subdivision Regulation Revisions".

Pleasant Valley Re-Zonings and associated Zoning Regulations Revisions

The three proposed zoning map revisions and associated zoning regulation revisions were drafted after considerable review and discussion. In preparing the 4/14/10 draft revisions, a significant amount of information was considered including:

- Local, regional and state land use plans
- Information and testimony presented at 12/18/06, 1/2/07, 3/17/08, 4/21/08, and 5/19/08 Public Hearings on previous rezoning proposals for the subject area and associated Zoning Regulation revisions (portions of PZC minutes from the hearings and post hearing discussions are attached)
- Information presented to the PZC during the spring of 2007 by Mansfield's Superintendent of Schools, Board of Education Chairman, Fire Chief, Fire Marshal/Emergency Services Director and by Jim Gibbons of the University of Connecticut Co-operative Extension.
- A map display of site and neighborhood characteristics of the subject Pleasant Valley Road area prepared by Chairman Favretti and a 7/2/07 Land Use/Zoning Analysis of the subject area prepared by Chairman Favretti and myself (analysis attached and map will be displayed at 6/7/10 Public Hearing)
- Information presented by Attorney Kari Olson (representing Bruce and Franca Hussey, the primary property owners of the land currently zoned Industrial Park), following the completion of public hearings on previous rezoning proposals.

Clearly, a considerable amount of time has been taken in reviewing the subject area and in formulating the draft rezonings and associated regulations that are pending before the Commission. It is important to note that in addition to the explanatory notes provided with the draft, intent sections have been incorporated for the existing Pleasant Valley Residence/Agriculture (PVRA) zone and the proposed Pleasant Valley Commercial/Agriculture (PVCA) zone. These intent sections include reasons and objectives for the proposed rezonings.

The following additional review comments on revisions associated with the Pleasant Valley rezonings are offered for the PZC's consideration:

1. Relation to Mansfield's Plan of Conservation and Development

All of the proposed revisions associated with the proposed rezonings in the subject Pleasant Valley Road area are tied to implementing goals, objectives and recommendations contained in Mansfield's 2006 Plan of Conservation and Development. This subject Pleasant Valley Road area has special characteristics particularly scenic prime agricultural land which has been and continues to be actively used by local farmers. The area also has access to public sewer and water systems and is one of the few undeveloped areas left in town with access to these services. The area does not have good roadway access and intensive commercial or industrial uses would present significant traffic safety issues. The area also is proximate to existing residential uses and abuts other areas of existing agricultural uses. All of these factors as well as consistency with state and regional land use plans were evaluated by the Planning and Zoning Commission during the four year period during which Mansfield's Plan of Conservation and Development was updated and subsequently during discussions related to previously proposed rezonings. The area's special characteristics are documented in the 2006 Plan and the aforementioned 7/2/07 Land Use/Zoning Analysis prepared by the PZC Chairman and Director of Planning. Although the permitted uses for the proposed PVCA zone differ from the medium to high density residential recommendations cited in Mansfield's 2006 Plan, the overall plan objective of providing for both agricultural preservation and complementary development opportunities dependent on public sewer and water has been met.

More specifically, the rezonings and associated regulation revisions specifically address Plan of Conservation and Development policy goals 1, and 2 (page 4) and Part II recommendations associated with policy goal 1, objectives 1a (page 34), 1b (pages 35 to 37), 1d (page 38 and 39), policy goal 2, objectives 2a (page 41 and 42), 2c (page 45 and 46) and 2d (page 46). (These pages are attached).

2. Relation to State and Regional Land Use Plans

As specifically cited in Part III of Mansfield's Plan of Conservation and Development, the policies, objectives and recommendations contained in Mansfield's Plan are very consistent with both the Conservation and Development Policies Plan for Connecticut 2005-2010. In particular, the proposed Pleasant Valley Residence/Agriculture and Pleasant Valley Commercial/Agriculture zones and associated zoning regulations are considered consistent with Growth Management Principles 1 and 4 of the State's Plan. Areas proposed for rezoning to PVRA and PVCA are primarily within "growth" land use classifications in the State's Plan but the State plan also recognizes the important agriculture lands that exist in this area. This area is depicted on the state plan (pg. 66) as part of one of five areas of the state labeled "Important Agriculture Areas". The 5/5/10 letter from the WINCOG Regional Planning Commission supports the position that the proposed regulations and zone changes are consistent with the Regional Plan, which was updated in 2010. The regional plan mapping designates a portion of the area of proposed rezoning as Regional Center but land along Pleasant Valley Road and Mansfield Ave are within a high priority preservation category.

3. Text wording/coordination with other regulations/legal appropriateness

- The proposed revisions have been drafted to fit in with existing regulatory provisions.
- The proposed revisions have been found legally acceptable (see Town Attorney's 6/1/10 letter)

4. Mansfield's Public Infrastructure

The expansion of the existing Pleasant Valley Residence Agriculture Zone and establishment of a new Pleasant Valley Commercial Agriculture Zone will compliment Mansfield policy goals and objectives designed to encourage a higher percentage of Mansfield's future development into areas with public sewer and water systems. Currently, the only public water and sewer services are located adjacent to the University of Connecticut and the Town of Windham. Existing roadways in this area are not suitable to serve intensive industrial or commercial uses and therefore the listing of permitted uses for the PVCA zone have been refined to help prevent public safety problems.

5. Other

- After careful review of site and neighborhood characteristics, it was determined that rezoning land west of Mansfield Avenue to RAR-90 would be more compatible with neighboring land uses, existing zoning classifications and overall Plan of Conservation and Development goals, objectives and recommendations.
- The 25 acre minimum lot size provision for the PVRA zone and proposed PVCA zone is designed to limit the number of specific projects and help ensure Plan of Conservation and Development and regulatory provisions were appropriately addressed. This lot size provision would not be possible if there were numerous property owners in the subject area of rezoning. Other than two existing smaller lots of record that are used residentially, the subject area of rezoning involves three property owners and only one of these properties would be large enough to subdivide. Of importance, Mansfield's Zoning Regulations allow for development in phases.
- Following the 2008 public hearing process on a previous rezoning proposal, the PZC Chairman and I met with Bruce Hussey, the primary property owner that would be affected by the proposed rezoning, and his attorney, Kari Olson. An October 2009 draft revision that was not presented at public hearing was forwarded to Mr. Hussey and in early 2010, comments on the October draft were received from Attorney Olson. Subsequently, a number of revisions were incorporated into the 4/14/10 draft to address some of the issues raised by Attorney Olson.
- During the deliberations regarding the formation of the 4/14/10 draft, the Commission determined that more specific design criteria and a setback from Pleasant Valley Road should be included in the draft regulation. These provisions are designed to promote the retention of scenic agricultural areas closest to Pleasant Valley Road and to reinforce the objective of locating future development in southerly portions of the area, particularly in the Pleasant Valley Residence Agriculture Zone.

- Although a precise analysis has not been conducted, a preliminary assessment, based on generic mapping and previously approved multi-family developments, indicates that between 100 and 175 dwelling units are feasible on the area proposed for rezoning to Pleasant Valley Residence Agriculture.

Other Zoning and Subdivision Regulations Revisions

- In addition to the revisions associated with the proposed re-zonings, the 4/14/10 draft includes important revisions designed to strengthen existing submission and approval criteria regarding aquifer and public water supply well protection and to specify that invasive plant species identified by the State Department of Environmental Protection Agency shall not be used in submitted landscape plans. These changes have been supported by the Conservation Commission, who initiated consideration of the subject revisions (see 5/27/10 letter from Conservation Commission). In general, these revisions are designed to promote land use goals articulated in local, regional and state plans and promote and protect the public health, welfare and safety. The explanatory notes provided for each of these proposed revisions summarize the rationale for the draft amendments.

Summary/Recommendation

The proposed Zoning Map and regulation revisions present policy issues for the Commission's legislative discretion. The PZC must determine that the proposed revisions are legally appropriate, promote goals, objectives and recommendations contained in municipal, regional and state land use plans and in general promote the public's health, safety and welfare. The statutory provisions of Sections 8-2, 8-18 and 8-25 and the regulatory provisions of Article XIII, Section D of Mansfield's Zoning Regulations provide a legal basis and procedural guidance for making this determination. Pursuant to Section 8-3 (a) of the State Statutes, any approved revisions must include a finding with respect to compatibility with the Mansfield Plan of Conservation and Development. The PZC must consider all communications received during the Public Hearing process, but once the Hearing has been closed, no additional input shall be received except for technical assistance from staff. The PZC has the right to modify the proposed revisions prior to adoption, but any significant alterations should be presented through an additional Public Hearing review process.

Based on the information reviewed to date, it is this reviewer's opinion that the proposed Zoning Map and regulation revisions will significantly advance goals, objectives and recommendations contained in Mansfield's Plan of Conservation and Development, promote the public's health, welfare and safety, and enhance land use planning efforts in Mansfield. The proposed rezoning of the existing Industrial Park zone has been the subject of two previous public hearing review processes and many comments regarding the most appropriate rezoning for the subject area have been submitted for PZC consideration. The Commission and staff have carefully considered this area's physical characteristics and have made a concerted effort to balance the conservation of important agricultural and scenic assets with appropriate residential and commercial development opportunities that are afforded by public sewer and water availability that is only present in a very limited portion of Mansfield. The proposed revisions are part of a balanced and comprehensive land use approach that is documented in Mansfield's 2006 Plan of Conservation and Development. Adoption of the proposed revisions is recommended.

PART I

A. INTRODUCTION

Planning is a dynamic process of recognizing the past and anticipating and preparing for the future. This Plan of Conservation and Development for Mansfield, Connecticut, is adopted in accordance with the provisions of Section 8-23 of the Connecticut General Statutes, as amended. In formulating this 2006 revision, the Planning and Zoning Commission and Town Council have considered the information and findings contained in Mansfield's 1993, 1982 and 1971 Plans of Development, Mansfield's 2003 "Land of Unique Value Study" by the University of Connecticut's Landscape Architecture program, current State and regional land use plans, Connecticut's land use statutes, and the needs and desires of Mansfield residents as expressed through numerous public hearings and meetings.

The adoption and subsequent implementation of a municipal Plan of Conservation and Development is a continuous process of documenting a community's multi-faceted land use characteristics and establishing a consistent and coordinated land use philosophy and regulatory framework for managing the Town's future physical, economic and social environment. This plan specifies policy goals, objectives and land use recommendations designed to protect and promote the overall health, welfare and safety of existing and future residents, but it is primarily an advisory document and, to a significant degree, must be implemented through the creation or refinement of zoning districts, zoning, subdivision and inland wetland regulations and Town ordinances. In addition, this plan will influence capital expenditure decisions and the formulation of housing, transportation, sewer and water system priorities.

B. POLICY GOALS

- To strengthen and encourage an orderly and energy-efficient pattern of development with sustainable balance of housing, business, industry, agriculture, government and open space and a supportive infrastructure of utilities, roadways, walkways and bikeways and public transportation services
- To conserve and preserve Mansfield's natural, historic, agricultural and scenic resources with emphasis on protecting surface and groundwater quality, important greenways, agricultural and interior forest areas, undeveloped hilltops and ridges, scenic roadways and historic village areas
- To strengthen and encourage a mix of housing opportunities for all income levels
- To strengthen and encourage a sense of neighborhood and community throughout Mansfield

PART II

LAND USE GOALS, OBJECTIVES AND RECOMMENDATIONS

A. GENERAL

Part II of this Plan provides, in an action-oriented format, listings of goals objectives and recommendations designed to implement the policy goals identified in Part I. The recommendations are based on the information contained or referenced in Part I. Particular attention has been given to recommendations contained in State and regional land use plans, Mansfield's 2003 Land of Unique Value Study and information provided individually or collectively through the town's various citizen committees by Mansfield residents who have participated in the Plan update process. Implementation of these recommendations will be dependent on many factors, including statutory and case law authority, fiscal viability and the receipt of new information. Implementation will take many forms, including the creation or refinement of zoning districts, zoning, subdivision and inland wetland regulations and Town Ordinances, capital expenditure decisions and, in some cases, referendum action. These recommendations must be continuously monitored and, as appropriate, periodically revised, to protect and promote the public's overall health, welfare and safety. Citizen volunteers must continue to play a vital role if Mansfield is to achieve the policy goals, objectives and recommendations cited in this Plan. It is noted that a number of the recommendations apply to multiple goals and objectives, and that, following many of the specific recommendations, background or rationale information (enclosed in parentheses) has been provided. It also is noted that important background information is contained within Mansfield's 1993 Plan of Development. This background information should be reviewed in conjunction with proposed amendments to Mansfield's Zoning Map or land use regulations.

B. SPECIFIC POLICY GOALS, OBJECTIVES & RECOMMENDATIONS

1. Policy Goal #1

To strengthen and encourage an orderly and energy-efficient pattern of development with sustainable balance of housing, business, industry, agriculture, government and open space and a supportive infrastructure of utilities, roadways, walkways and bikeways, and public transportation services

a. Objective

To address existing health or environmental quality issues and to encourage appropriately located higher-density development by expanding existing sewer and public water services where appropriate and considering appropriate community systems.

Recommendations

- Work with University of Connecticut, Town of Windham, Eastern Highlands Health District and State officials to plan, fund and construct appropriate expansions of existing sewer and water systems and to promote water conservation.
(This Plan's mapping of Medium to High-Density Residential, Medium to High-Density Age-Restricted Residential, Agriculture/Medium to High-Density Residential/Open Space, Planned Business/Mixed Use, Planned Office/Mixed Use, and Medium to High-Density Institutional/Mixed Use [see Map #22] should be used to help define potential sewer and public water service areas).
(Environmentally appropriate wellfield withdrawal capacities need to be established for the University of Connecticut's Fenton and Willimantic River

wellfields and, as necessary, additional public water for the University campus areas needs to be obtained from the Willimantic or Shenipsit reservoirs or other sources.)

- Support initiatives to document surface and groundwater quality and public health issues in the Four Corners area and to seek State and Federal funding to extend public sewer and water services to this area.
(This effort must be coordinated with the University of Connecticut and Eastern Highlands Health District and is of immediate importance. The University is finalizing plans to extend North Hillside Road to Route 44 and provide public utilities to undeveloped portions of “North Campus.”)
- Work with State officials and Eastern Highlands Health District to consider, on a case-by-case basis, the authorization of community wells and community septic systems where soils, bedrock geology and groundwater characteristics are appropriate and the site location is consistent with the locational goals and objectives of this Plan.
(The appropriate utilization of community systems will help promote opportunities for affordable housing, age-restricted housing and cluster or open space designs consistent with goals and objectives cited in this Plan. Any change to existing policies regarding community systems will necessitate specific action by Mansfield’s Water Pollution Control Authority (Town Council) and changes to existing zoning regulations.)

b. Objective

To encourage higher-density residential and commercial uses in areas with existing or potential sewer, public water and public transportation services and to discourage development in areas without these public services by refining Zoning Map and Zoning Regulations.

Recommendations

- Encourage, where public sewer and water services exist, higher-density commercial uses and, where appropriate, mixed commercial/residential uses in areas designated as Planned Business/Mixed Use and Planned Office/Mixed Use on this Plan’s “Planned Development Areas” Map (Map #22).
(Land use regulations must include appropriate approval criteria that address health, safety, environmental impact and neighborhood compatibility issues.)
- Consider, under comprehensive approval standards, higher residential densities in areas served by sewers and public water systems.
- Refine existing zone classifications and regulatory provisions that recognize that this Plan’s designated medium to high-density residential and planned commercial areas (see Map #22) have specific infrastructure capabilities and unique environmental and neighborhood characteristics.
(Individualized permitted use provisions should be refined for each designated area and regulatory approval criteria and associated design standards should take into account the specific character of each area. For example, contractor’s storage, automotive repair and similar commercial uses are more appropriate in the Planned Business/Mixed Use area along Route 32 than in other designated Planned Business/Mixed Use areas or Neighborhood Business/Mixed Use areas. As another example, to be compatible with this Plan, medium to high-density residential developments in areas south of Pleasant Valley Road and located east and west of Mansfield Avenue need to be designed to preserve existing onsite

agricultural resources and be compatible with neighboring agricultural resources. This Plan recommends that at least fifty (50) percent of a project site in this area be permanently preserved as agricultural or open space land, depending on specific site characteristics.)

- Refine existing zone classifications, permitted use provisions and approval criteria for Neighborhood Business/Mixed Use classifications, as designated on this Plan's "Planned Development Areas" Map (Map #22), that are not served by public sewer and water services.
(Zoning policies for these areas should allow for continuation and appropriate lower-density expansions of existing commercial uses, but should discourage any significant intensification of commercial development or redevelopment that would result in inappropriate neighborhood impacts and undermine goals and objectives of this Plan. Many of the designated Neighborhood Business/Mixed Use areas are within historic village areas and are proximate to residential uses.)
- Encourage University of Connecticut officials to continue to provide and expand on-campus housing opportunities for students. Where student demand cannot be accommodated on campus, town and University officials should take appropriate actions to facilitate the development or redevelopment of student housing in areas proximate to the Storrs campus where sewer and water systems exist or may be extended.
(Consideration should be given to establishing a specific student housing-oriented zone classification with specialized permitted use provisions in areas northwest of the Storrs campus where existing student housing exists.)
(Potential impacts on neighboring residential areas need to be addressed carefully.)
- Refine existing provisions regarding non-conforming uses.
(Zoning policies for non-conforming uses, particularly commercial and higher-density residential uses, should allow for continuation and potential limited expansions, but should discourage any significant intensification that would undermine goals and objectives of this Plan.)
- Refine existing provisions regarding non-conforming lots.
(Zoning policies for non-conforming lots should be reviewed to ensure that existing lots can continue to be used in a reasonable manner consistent with the goals and objectives of this Plan. The residential zoning revisions proposed in this Plan will increase the number of non-conforming lots in Mansfield.)
- Consider regulation revisions or specialized zone classifications for designated aquifer protection areas and areas of potential public water supply.
(Mansfield's 2002 Water Supply Study, Windham and University of Connecticut water supply plans and other information available from the State Department of Environmental Protection or other agencies should be considered in determining whether added zoning protection is appropriate for existing and potential public drinking water supplies.) (See Map #10.)
- Consider Zoning Map revisions to promote consistency with this Plan's "Planned Development Areas" designations (Map #22) and goals and objectives of this Plan. It is emphasized that some rezonings may not be appropriate until infrastructure improvements are implemented or until a specific development proposal is submitted for approval. The following zone classification revisions should be considered:

- Rezone areas classified in this Plan as low-density residential to a Rural Agricultural Residence-90 zone.
(Consideration should be given to excluding areas of existing one-acre lot development.)
(Areas of potential rezoning include land currently zoned R-40, RAR-40 and RAR-40/MF)
(See Goal #2, Objective a recommendations for more information)
- Rezone areas noted below which are depicted in this Plan as medium to high-density residential and/or medium to high-density age-restricted residential to a Design Multiple Residence zone, Age-Restricted Residential, or another zone classification consistent with the goals and objectives of this Plan.
(Areas of potential rezoning include land east of Route 32 and south of Route 44, land east of Cedar Swamp Brook and south of Route 44, land east of Hunting Lodge Road, land east of Maple road and south of Route 275, land north of Route 44 and east of Cedar Swamp Brook, land south of Puddin Lane and land south of Pleasant Valley Road and located east and west of Mansfield Avenue.)
(Consideration should be given to maintaining or enacting a Low-Density Residential zone classification in these areas until an application for a specific higher-density residential development is submitted in conjunction with an application for a higher-density zone classification.)
(The existing Industrial Park zoning district south of Pleasant Valley Road is no longer considered appropriate, due to access limitations, agriculture, aquifer and wetland characteristics, site visibility, neighboring agricultural and residential uses and other goals and objectives of this Plan.)
- Rezone areas noted below which are depicted in this Plan as Medium to High-Density Age-Restricted Residential to a new zone classification that promotes appropriate housing opportunities for individuals age 55 or over.
(Areas of potential rezoning include land north of Route 44 and west of Cedar Swamp Road and land west of Maple Road and south of Route 275.)
(Consideration should be given to maintaining or enacting a Low-Density Residential zone classification in these areas until an application for a specific higher-density residential development is submitted in conjunction with an application for a higher-density zone classification.)
- Rezone areas along North Eagleville Road and King Hill Road from Planned Business to a less intensive commercial classification.
(Mixed commercial/residential uses, multi-family housing and institutional uses associated with the University of Connecticut are considered appropriate in this area, but more intensive commercial uses would be incompatible with the Plan's objective of encouraging higher-density commercial uses in the nearby Planned Business areas designated in this Plan.)
- Rezone areas situated west of Route 195 and south of Route 44 and designated as the University of Connecticut's "North Campus" to an Institutional classification.
(The current Research and Development/Limited Industrial is no longer appropriate, due to current University ownership.)
- Rezone areas east of Route 32 and south of Cider Mill Brook to a Planned Business classification.
(This rezoning would result in a more uniformly-configured commercial area.)

- Rezone areas east of Route 195 between Riverview Road and the Windham Water Works as a Planned Office zone or, subject to use restrictions that will minimize neighborhood impacts, a Planned Business zone.
(Mixed residential/commercial and other lower-intensity commercial uses may be appropriate in this area subject to consideration of noise and other neighborhood impacts, but any rezoning of this area should be done in conjunction with a development project for the entire area, and not on a lot-by-lot basis.)
- Rezone areas along Route 195 proximate to Dog Lane and the Storrs Post Office road to a special "Downtown" design district.
(See Goal #1, Objective c Recommendations for more information.)

c. Objective

To encourage mixed-use developments, such as the Storrs Center "Downtown" project, in areas with existing or potential sewer and public water.

Recommendations

- Upon approval of the pending Storrs Center Municipal Development Plan, action will be needed to establish a new special Design District zoning classification and to incorporate into the Zoning Regulations related design standards and approval processes.
(A Municipal Development Plan has been prepared for a mixed-use Storrs Center Downtown project and, upon resolution of remaining planning and construction details and the issuance of required permits, construction is expected to begin in 2006. This project, which includes new commercial and multi-family housing development and civic improvements, is expected to directly and significantly promote all four policy goals of this Plan. The Storrs Center Municipal Development Plan has been reviewed by the Planning and Zoning Commission and is in accord with this Plan of Conservation and Development. More information about the Storrs Center Downtown project is available under Downtown Partnership at www.mansfieldct.org.)
(Other priority mixed-use development areas are situated in the Four Corners and East Brook Mall Planned Business areas and the King Hill Road Neighborhood Business area. (See Map #21.) Similar Special Design District zoning regulations should be considered in these areas.)
(Special Design District provisions will need to address permitted uses, traffic, parking, drainage and infrastructure issues, neighborhood impact issues and design standards for buildings and associated site improvements.)
(To be consistent with this Plan, the Storrs Center Downtown project and the other identified mixed-use development areas shall be designed to promote and encourage human interaction and pedestrian usage. The scale (the size relationship of a structure or improvement to the site and people who use it) and the mass (the size or bulk of a structure or improvement) of new buildings and improvements in new design district shall be consistent with this objective and be compatible with the character of each subject site and neighborhood, as well as the New England region.)

d. Objective

To promote the public's health, safety and convenience, to protect and enhance property values, to protect Mansfield's natural and manmade resources and to promote other goals and objectives contained in this Plan by strengthening land use

regulations, particularly permitted use provisions, application requirements and approval standards.

Recommendations:

- Refine existing land use regulations to ensure appropriate review of specialized or more intensive land uses that have the greatest potential for traffic, environmental or neighborhood impact or emergency services issues.
(Examples include multi-family housing projects, larger subdivisions, commercial and industrial uses, gravel removal or filling operations, telecommunication tower installations and uses in Flood Hazard zones.)
- Refine existing permitted use provisions in the Zoning Regulations and associated approval criteria and permit processes to ensure that all permitted uses are compatible with the goals, objectives and recommendations contained in this Plan, and that appropriate review and approval standards are in place for each permitted use.
- Refine existing zoning and subdivision regulations regarding site development, drainage, erosion and sediment control, landscaping and buffering, signage, lighting and parking to ensure that appropriate standards are in place to promote the goals, objectives and recommendations contained in this Plan.
(Site development and erosion and sediment control provisions should be reviewed with respect to best management practices and stormwater management guidelines prepared by Federal and State agencies. A concerted effort should be made to minimize the impervious surfaces.)
(Parking requirements should be reviewed with respect to recent studies by the Institute of Traffic Engineers, the Urban Land Institute and the American Planning Association, to ensure that adequate but not excessive numbers of parking spaces are provided for land use developments.)
(Landscaping requirements should be reviewed with respect to controlling species that may be invasive.)
(Lighting requirements should be reviewed to ensure that site lighting is the minimum needed for safety and security purposes and to emphasize the prevention of undesirable illumination or glare above a site or beyond a site's property lines.)
- Refine existing architectural and design standards and flexible dimensional provisions to address goals, objectives and recommendations contained in this Plan.
(Where appropriate due to specific analysis, individualized design standards should be incorporated in the Zoning Regulations. Examples include the Storrs Center Downtown project, the Four Corners area, designated historic districts and other historic village areas.)
- Refine existing zoning regulations regarding home occupation uses to continue existing policies of allowing accessory commercial uses in residential zones that do not create excessive traffic, noise or other inappropriate neighborhood impact.
- Consider zoning revisions to encourage and require, where legally appropriate, the use of "Leadership in Energy and Environmental Design (LEED) standards for new buildings and site work.
- Refine existing land use regulations that encourage and require, where legally appropriate, layout designs that promote solar access and energy-efficient developments.

(Existing provisions should be reviewed with respect to roadway and driveway widths, sightline requirements and the use of common driveways to minimize curb cuts. This is particularly important along town-designated Scenic Roads.)

- Continue to maintain the town's existing public transportation, roadway, bridge and sidewalk-bikeway system and, as funding allows, implement improvements that promote goals, objectives and recommendations contained in this Plan.
(See Appendix L for a 2005 listing of transportation improvement needs (public transportation and associated commuter parking facilities, streets, bridges and sidewalk-bikeways.)
- Continue to implement, on a location-by-location basis, speed humps, roundabouts and other traffic-calming improvements designed to reduce vehicular speed.
(Guidelines should continue to require neighborhood notification and support and coordination with emergency service providers.)
(Particular attention should be given to village areas identified in this Plan.)
- Continue to work with the University of Connecticut to encourage roadway, walkway/bikeway/ parking and public transportation improvements that serve areas proximate to the campus.
(Priority projects include new arterial road/bikeway connections from Routes 44 and 275 to the core campus, a new South Campus parking garage, and implementation of an on-campus bicycle improvement plan.)
- Continue to publicize and promote bicycle usage in town, particularly along Town-designated and delineated bicycle routes.
(See Map #18 for mapping of Mansfield's designated bicycle routes.)

2. Policy Goal #2-

To conserve and preserve Mansfield's natural, historic, agricultural and scenic resources with emphasis on protecting surface and groundwater quality, important greenways, agricultural and interior forest areas, undeveloped hilltops and ridges, scenic roadways and historic village areas.

a. Objective

To protect natural resources, including water resources, geologic/topographic resources and important wildlife habitats and plant communities, by refining the Zoning Map, land use regulations and construction standards, considering new municipal ordinances and capital expenditures, and considering other actions

Recommendations:

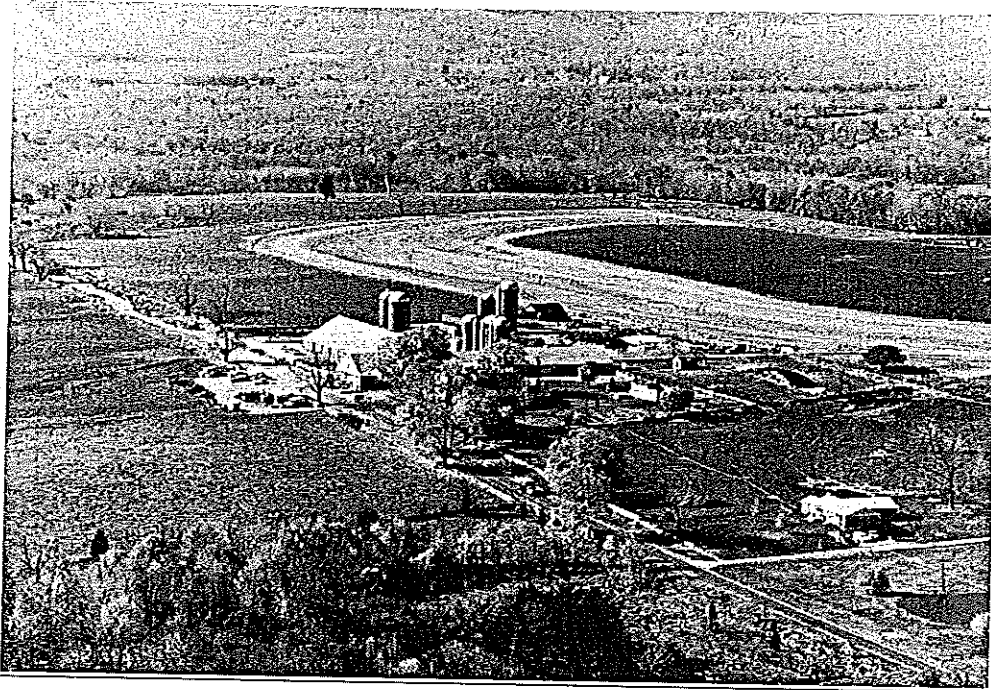
- Revise Zoning Map to classify areas designated as low-density residential on this Plan's "Planned Development Areas" Map (Map # 22) as Rural Agricultural Residence 90-Residence.
(A residential density based on one dwelling per 90,000 square foot lot is considered appropriate, due to the lack of public sewer and water systems, physical limitations due to Mansfield's soils, wetland and watercourses, steep slopes and bedrock characteristics, the need to protect the watersheds of the Willimantic Reservoir and public drinking water wellfields, the need to protect existing and potential agricultural land, the desire to protect existing hilltops and ridge lines and recommendations contained in Mansfield's Land of Unique Value Study, the Windham Region Land Use Plan and the State Policy Plan for Conservation and Development.)

- Encourage appropriate extensions of existing sewer and public water supply systems to help reduce residential development pressure in areas classified low-density residential.
(In association with expanded opportunities for higher-density development in areas with public infrastructure, consideration should be given to a transfer of development rights program, to enhance the protection of natural, agricultural and scenic resources.)
- Refine Zoning and Subdivision Regulations to require, where physically possible, open space or cluster layouts with smaller lot sizes and a higher percentage of dedicated open space.
(Particularly appropriate for larger subdivisions and all subdivisions within depicted “Existing and Potential Conservation Areas” on Plan Map # 21).
(Frontage and minimum lot size requirements should be reviewed and revised as appropriate to encourage open space or cluster layouts.)
(Regulations should not authorize overall densities greater than would be possible under a conventional layout.)
- Revise Zoning and Subdivision Regulations to require for each new lot in a designated low-density residential area an appropriate development area envelope without inland wetlands or watercourses, exposed ledge, slopes exceeding 15 percent or easements dedicated to other use.
(Based on Mansfield’s soils, slopes, bedrock geology and other physical characteristics, which collectively pose significant development limitations, a minimum area of 40,000 square feet should be considered to ensure adequate area for new structures, onsite septic systems and wells and other site improvements, and to help ensure the protection of stone walls and other historic structures and other natural and manmade resources. Part I of this Plan documents or references the nature of Mansfield’s physical limitations.)
- Strengthen existing Zoning, Subdivision and Inland Wetland Regulations to clarify existing provisions that require a landscape architect, soil scientist, land surveyor, engineer and, as needed, other qualified professionals to inventory and suitably protect important site features with site-specific building area envelopes, development area envelopes and other measures.
(Mapping and other information in this Plan are designed to assist with the inventory of natural, historic, agricultural and scenic features and important wildlife habitats and plant communities, but, in most cases, a site-specific analysis is necessary for new land use applications.)
- Strengthen existing policy of discouraging extensive site-clearing, regrading and the removal or deposition of significant amounts of material for new subdivisions.
(This policy is particularly applicable within or proximate to areas classified in this Plan as “Existing and Potential Conservation Areas.”)
(A site’s original physical capabilities should be the prime determinant in establishing residential densities in non-sewered areas.)
- Strengthen existing policy of encouraging or requiring, in conjunction with a new land use application, the use of Best Management Practices for the use of fertilizers, pesticides and other chemicals.
- Strengthen Zoning, Subdivision and Inland Wetlands Regulations to incorporate more specific provisions for the submittal, approval and maintenance of stormwater management plans and erosion and sedimentation control plans to address potential water quality and water quantity impacts from a new

- Consider the establishment of a specialized town fund to help finance village improvements, including façade improvements, landscape improvements and pedestrian and public transit improvements.
- Preserve existing Town Meeting Notice signposts in Gurleyville, Mansfield Center, Mansfield City, Spring Hill and Wormwood Hill.

c. **Objective:**

To protect agricultural and forestry resources and to encourage retention and expansion of agricultural/forestry uses by refining Zoning Map and land use regulations and considering other actions.



Stearns Farm

Recommendations:

- Continue to utilize Mansfield's Open Space Acquisition Program and land use application dedication requirements to permanently preserve farmland and forest resources through ownership of land or development rights.
(This Plan's Existing and Potential Conservation Areas Map (Map # 21) and the open space acquisition priority criteria in Appendix K should be utilized to help establish priorities.)
- Revise zoning and subdivision regulations to incorporate more specific requirements for buffering and screening new development from existing agricultural uses.
- Continue existing taxation policies which promote utilization of the State's 490 Program for agricultural land and for forest lands over 25 acres in size, and consider implementing the open space component of the State's 490 Program.
- Continue existing policy of leasing town-owned agricultural land at reasonable rates, for agricultural purposes.
- Continue and expand existing policy of managing forest resources on Town open space land.

- Consider revisions to the Zoning Map to designate special zone classifications and permitted use provisions for high-priority agricultural land and interior forest areas.
(Special density provisions and design standards and a transfer of development rights program should be considered to promote retention of these areas and to discourage non-agricultural uses on productive farmland and prime agricultural soils. Within the designated medium to high-density residential area south of Pleasant Valley Road, special provisions should be enacted that require the preservation of at least fifty (50) percent of the designated agricultural or open space land, depending on site characteristics, and that address potential impacts for neighboring agricultural uses.)
- Revise road and driveway standards to help prevent inappropriate encroachments into designated interior forest or agricultural preservation areas or existing or potential open space preservation areas.
- Work with University of Connecticut officials to preserve State-owned farm land, prime agricultural soils and interior forest areas.
- Consider land use regulation revisions to provide more flexibility for agricultural property-owners to initiate or expand pick-your-own operations, retail farm stands and other commercial agricultural uses.
- Consider adoption of a municipal ordinance that supports and encourages agricultural uses and creation of agricultural districts.
- Support existing agricultural uses with active advice from Mansfield's Agriculture Committee.

d. Objective:

To help ensure protection of scenic resources by refining land use regulations and consider other actions.

Recommendations:

- Encourage use of this Plan's "Scenic Resources and Classifications" (Map # 12) to help identify and protect scenic overlooks and other areas of particular scenic importance.
(This map should be specifically referenced in the Zoning and Subdivision Regulations and used in conjunction with the town's open space acquisition programs, but should not take the place of a site-specific analysis as required by current regulations.)
- Refine zoning and subdivision regulations to emphasize the importance of siting new structures and designating open space areas in a manner that preserves important scenic resources, particularly views and vistas to and from public roadways, parks and preserved open space areas, agricultural fields, forested ridges, river valleys, glacial features and historic village areas.
- Consideration should be given to incorporating special building height restrictions and requiring open space or cluster layouts in hilltop and ridgeline areas.
- Encourage expansion of Mansfield's Scenic Road Program. Particular attention should be given to roads or portions of roads that are within or abut designated "Existing and Potential Conservation Areas" (Map #21), historic village areas (Map #5) and other areas having scenic significance based on this Plan's "Scenic Resources and Classifications" (Map #12).

- Encourage, through purchase or donation, public land and private conservation easements along existing and planned greenway corridors.

3. Policy Goal #3

a. Objective

To promote construction of additional affordable housing by refining land use regulations and considering other actions.

Recommendations

- Continue and refine existing policies that authorize higher-density multi-family housing in many areas of town; authorize two-family and efficiency unit apartments in most areas of town and retain 800 square feet as the minimum size for single-family homes throughout the town.
- Incorporate uniform density standards for developments with a mixture of single-family, two-family and multi-family dwelling units.
(Existing Design Multiple-Residence regulations have different density requirements for each type of dwelling unit.)
- Consider incorporation of specific regulatory provisions for “co-housing” projects with shared community facilities.
(This form of housing can help reduce dwelling unit size and overall housing costs.)
- Consider regulatory provisions that authorize new community septic systems and wells for affordable housing projects and co-housing projects.
(See recommendation under Policy Goal #1, Objective a.)
- Continue to support the activities of Mansfield’s Housing Authority, which operates the Wright’s Village elderly housing development, the Holinko Estates low and moderate-income housing development, and administers a rental support program for individuals who qualify under Federal and State guidelines.
- Work with legislative representatives to revise State statutes to enable municipalities to increase the State’s real estate conveyance tax for local affordable housing activities.
- Continue to participate in the Federal Small Cities Program and/or other Federal or State programs designed to promote affordable housing opportunities.
- Consider incorporation of specific low and moderate-income “inclusionary” provisions for multi-family housing and larger subdivision developments.
(Regulatory provisions should consider requirements that a certain percentage of new dwelling units or lots be permanently set aside for low and moderate-income individuals. Particularly in areas with public sewer and water, density bonuses should be considered.)
- Continue and refine existing policies that provide for flexible setbacks and frontages and common driveways, where physical characteristics are appropriate.
(These policies can help reduce infrastructure requirements and overall development costs.)

LEGAL NOTICE

The Mansfield PZC will hold a Public Hearing on Monday, May 7, 2012 at 7:15 p.m. in the Council Chambers, A.P. Beck Bldg., 4 S. Eagleville Rd, to hear comments on PZC-proposed 3/5/12 draft revisions to the Mansfield Zoning Regulations.

Proposed Zoning Regulation revisions include:

1. Revisions to Art. VII, Section A.4 related to the review process for changes in use in the PVCA and RDLI zones.
2. Revisions to Art. VII, Sec. U to correct typos in the existing regulations and clarify the types of repair services allowed in the PVCA zone.
3. Revisions to Art. VIII, Sec. A including changes to minimum lot area and setbacks in the PVRA and PVCA zones.
4. Revisions to Article X, Section A.9 to refine and supplement requirements for the PVRA zone, including changes to provisions for agricultural land preservation, residential development standards, open space/recreation facilities and PVRA design criteria.
5. Revisions to Article X, Section A.10 to refine and supplement requirements for the PVCA zone, including changes to provisions for agricultural land preservation and PVCA Design Criteria.

At this Hearing, interested persons may be heard and written communications received. No information from the public shall be received after the close of the Public Hearing. Additional information, including the wording of the proposed Zoning Regulations is available in the Mansfield Planning and Town Clerks Offices and at www.mansfieldct.org.

J. Goodwin, Chair

K. Holt, Secretary

TO BE PUBLISHED Tuesday, April 24 and Wednesday, May 2, 2012

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May 2, 2012

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Planning & Zoning Commission
Town of Mansfield
Audrey P. Beck Building
Four South Eagleville Road
Mansfield, CT 06268-2599

Ladies and Gentlemen:

As requested by Town of Mansfield Director of Planning and Development Linda M. Painter, I have completed my review of the **Draft Zoning Regulation Revisions Re: Pleasant Valley PZC file #907-37**. The following preliminary legal opinion includes commentary addressed to objections made to similar draft regulations proposed in 2008 and later enacted (**PZC file #907-30**), submitted by the attorney representing area landowners Bruce and Franca Hussey during the public hearing process in 2008, and on appeal in **Hussey v. Town of Mansfield PZC**, No. CV10-6002401-S, (Superior Court, District of Tolland, filed 10/13/10). That court case, as you know, is still pending.

As you know, the only question for me as town counsel is whether the proposed amendments are legal. It is not my role to say whether I agree with the way in which the commission has exercised its broad discretion as to the content of its zoning regulations. It is my responsibility only to say whether the proposed amendments are within the purview of the Commission's authority under our constitutions and laws, especially Connecticut General Statutes section 8-2, the statute which expressly authorizes the PZC to adopt regulations controlling the zoning of land to the extent set forth in that law.

Previously, the attorney for Mr. and Mrs. Hussey cited the United States Supreme Court decision in **Dolan v. City of Tigard**, 512 U.S. 374 (1994), claiming that similar amendments proposed in the previous case regarding the PVRA and PVCA zones are an unconstitutional taking of the property of Mr. and Mrs. Hussey clients as they potentially permit the PZC to require the dedication of some land to agricultural use.

These proposed subsections both provide that as a result of the special permitting process to be put in place by these regulations "... the Commission shall have the authority to require up to forty (40) percent of the prime agricultural acreage on a subject property to be permanently preserved for agricultural use."

In pertinent part, C.G.S. section 8-2, authorizing zoning authorities to regulate land use, provides that "All such regulations . . . may provide that certain . . . uses of land are permitted only after obtaining a special permit . . . subject to . . . **conditions necessary to protect the public health, safety, convenience and property values.**" (emphasis added). Moreover and more specifically, section 8-2 also provides that "**Zoning**

Planning & Zoning Commission
Town of Mansfield
May 2, 2012
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regulations shall be made with reasonable consideration for their impact on agriculture . . . (emphasis added).

In *Dolan v. City of Tigard*, supra, in an opinion countered by a dissenting opinion authored by Justice John Paul Stevens and signed by three justices of the Supreme Court, the majority held that the decision of a local land use authority to condition approval of a building permit on the dedication of a **specified portion** of the owner's property to **public use** amounted to an unconstitutional taking of the owner's property. Here, there is no requirement of dedication of a **specified portion** of land. Here, there is no requirement of dedication of a portion of land to **public use**. Finally, here we are concerned with the Commission's **legislative** function, where it is vested with broad discretion, rather than the much less discretionary **administrative** role played by the land use agency in the *Dolan v. Tigard* case.

As you know, a zoning commission has broad discretion as to the content of its zoning regulations. Zoning regulations are a valid exercise of the police power as long as they have a rational relation to the public health, safety, welfare and prosperity of the community and are not such an unreasonable exercise of the police power as to become arbitrary, destructive or confiscatory. Thus, the action of a zoning commission in creating or amending regulations must meet two basic tests. It must promote the public welfare and it must do so in a reasonable manner. In other words, the regulations must have a rational basis. See, for example, *Wade v. Town Planning & Zoning Commission of Hamden*, 145 Conn. 592, 594 (1958).

In the aforementioned prior proceedings regarding the subject property and similar, albeit more restrictive proposals than those now under consideration, the attorney for Bruce and Franca Hussey claimed that the proposed amendments constitute "spot zoning" in violation of state law. The claim of "spot zoning" has been raised when there is a reclassification of a small area of land to allow a use that is not extended to other land in the vicinity.

Generally, two elements are required for a zone change to be illegal as "spot zoning." First, there must be a change of zone affecting only a small area of land. Second, the change must be out of harmony with the comprehensive plan for the good of the community as a whole. See, for example, *Langer v. Planning & Zoning Commission of Westport*, 163 Conn. 453, 461 (1972). The proposed changes in this situation are, however, fully consistent with the Mansfield Plan of Conservation and Development completed just a few years ago. Any claim that this is "spot zoning" will not suffice.

With all this in mind, my conclusion is that the PZC has the legal authority to enact and to implement the subject draft amendments to the Town of Mansfield Zoning Map and

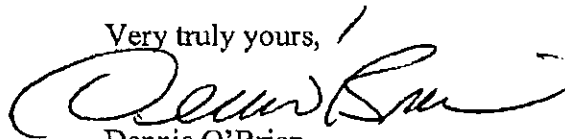
Planning & Zoning Commission
Town of Mansfield
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Regulations. Although I do not believe it is very likely that Bruce and Franca Hussey or anyone would prevail in a court challenge to the proposed regulations based on state or federal constitutional provisions or state statutory law, I cannot absolutely guarantee any such result. The best I can do is to repeat that constitutional challenges to regulations **on their face**, as legislated by a zoning commission like the Town of Mansfield PZC, **before the regulations are applied to a specific special permit application by the PZC in the course of acting administratively rather than legislatively as the Commission is doing now**, are very difficult for a challenger to sustain.

All things held equal, much depends on how these new regulations are eventually implemented by the PZC when your agency is finally called upon to act on an application and thereby fulfill your **administrative role** rather than the **legislative function** you are now undertaking in which you have substantial discretionary authority, as long as what you finally do promotes the public welfare in a reasonable manner.

Please let me know if and when you need any more from me on this.

Very truly yours,



Dennis O'Brien
Attorney at Law

cc: Linda M. Painter
Director of Planning & Development
Town of Mansfield

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OPEN SPACE PRESERVATION COMMITTEE

Comments on proposed Pleasant Valley zoning

April 24, 2012

At their April 24, 2012 meeting, the committee discussed the proposed zoning for the Pleasant Valley area and is providing specific comments and recommendations.

The farmland in Pleasant Valley is listed as a significant conservation resource in the Town's Plan of Conservation and Development. Overall, the committee continues to have concerns: that the preservation of open farmland in this area can be easily implemented and foster continued agricultural use of these lands. The proposed priority agricultural preservation areas on the Stearns, Chesmer and Hussey properties on Pleasant Valley Road are fields currently isolated from residential areas. Continuation of this isolation is an important factor in keeping this priority farmland viable for agriculture.

COMMENTS:

Residential development as proposed raises several concerns:

Agricultural use in potential conflict

The current proposal creates a residential zone east of Conant Brook that would mandate development in and adjacent to the priority agricultural land. It would place residences in woods to the south of this priority field. This close proximity to the field would not provide an adequate buffer between residences and agricultural land. Trespass leading to crop damage, litter from the driveway, and resident complaints about noise or odors have the potential to make these fields less viable for farming. This is especially critical since the ownership would remain with the developer/condo/residence owners, who would not be required or necessarily motivated to allow farming activities on these lands if they cause conflict.

Scenic farmland vista would be altered

The current scenic view of the priority field from the road, enhanced by the bend in the road bringing it in front of a driver's view, would be altered by residential buildings visible in the background behind the fields.

Wetlands function of Conant Brook

Dense residential development in the large wet woods where development is proposed could adversely impact the wetland function in the adjacent headwaters of Conant Brook. A large area of impervious surface associated with building roofs and parking lots would increase runoff. In conjunction with the reduction of forest cover this could cause downstream increases in peak flow, with potential erosion or flooding in the densely developed lower Conant Brook area.

RECOMMENDATION

The Open Space Preservation Committee recommends that the proposed PVRA zone east of Conant Brook not be approved. We recommend instead one zone for the entire Hussey property east of Mansfield Avenue that 1) places all development west of Conant Brook, where there is already existing residential development, and 2) designates an agricultural easement area east of Conant Brook.

This modification of the development location has several advantages:

Easier access:

The area west of Conant Brook is more easily accessed from Mansfield Avenue for traffic, sewer, and water than the proposed residential development area, reducing development costs.

Better agricultural buffer

The area east of Conant Brook has surrounding natural buffers for the priority agricultural land, reducing potential conflict of agricultural activity with the developed area and increasing the potential for successful long term agricultural use. These buffers are Conant Brook and associated wetlands on the west, existing wet woodlands on the south, and a secondary wetland to the east which buffers land on Mansfield City Road currently zoned for residential development.

Preserve scenic agricultural vista

The relocated development area would leave unaltered the view south of Pleasant Valley Road across the agricultural field.

Better wetland function

There will be less alteration of the land cover in the immediate vicinity of Conant Brook, limiting any adverse changes in the brook's hydrology.

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 18 April 2012
Conference B, Audrey P. Beck Building
(draft) MINUTES

Members present: Joan Buck (Alt.), Robert Dahn, Neil Facchinetti, Quentin Kessel, Scott Lehmann, John Silander. *Members absent:* Aline Booth (Alt.), Peter Drzewiecki Frank Trainor. *Others present:* Linda Painter (Town Planner), Grant Meitzler (Wetlands Agent).

1. The meeting was called to order at 7:33p by Chair Quentin Kessel. Alternate Joan Buck was elevated to voting member for this meeting.

2. The draft minutes of the 21 March meeting were approved as written.

3. W1493 (Sabatelli, 306 Stearns Rd.) The Commission declined to comment on this *fait accompli*.

4. **PZC Subdivision Design Process Referrals.** Recently adopted subdivision regulations require that subdivision developers do a Site Analysis to provide information about wetlands, slopes, stone walls, existing vegetation, and other features of the property before submitting a proposal and yield plan. The idea is to permit the PZC, the Commission, and other Town entities to make site-specific suggestions about development before the developer has spent a lot of money on a detailed subdivision plan.

Linda Painter reviewed site maps provided for two subdivisions: Beacon Hill Estates Section 2 (ca. 60 acres on Mansfield City Rd. adjacent to & northwest of the existing Beacon Hill Estates development) and Bovino Manor (ca. 23 acres between Puddin La. & Conantville Rd. west of Sawmill Brook). {Lehmann's e-mail comment to the Town Planner regarding the 04/10 Field Trip to these sites is attached.} In the course of discussion, the Commission agreed on the following comments & suggestions:

Beacon Hill

- a. The Commission is pleased that a "Scenic Conservation Easement" is suggested along Mansfield City Rd.
- b. However, "Potential Open Space" should not coincide with the undevelopable wetland. At the least, this wetland should be buffered with additional open space.
- c. The Commission suggests that the developer seriously consider clustering development in the front portion of the property, dedicating the wetland and the back portion as open space. This would eliminate a road or common-driveway crossing of the wetland and significantly enlarge the area's contiguous dedicated open space.
- d. To the extent possible, stone walls should be preserved. The Commission notes that there may be tension between preserving existing stone walls and clustering development in the front portion of the property.
- e. The Commission suggests buffering the short "existing trail" on the northwest edge of the existing Beacon Hill development with a conservation easement.

Bovino Manor

- a. It makes sense to protect Sawmill Brook in this reach by conservation areas on the steep slopes at the northeast edge of the properties.
- b. It would be desirable if open space dedications and easements on this property permitted

extending the Nipmuck Trail to Conantville Rd.



5. **Proposed revisions to PVRA/PVCA.** Ms. Painter explained that in the course of attempting (unsuccessfully) to reach a settlement in a suit brought against the Town's Pleasant Valley zoning regulations, the PZC reconsidered these regulations and decided to propose some changes. The major ones are: (1) setbacks along Pleasant Valley Rd. are reduced from 500 ft to 200 ft, (2) the percentage of prime agricultural land that the PZC may require be preserved is reduced from 50% to 40%, and (3) language regarding residential developments is revised so that preserving agricultural land satisfies requirements for open space and recreational facilities. A public hearing on the proposed changes is scheduled for 07 May at 7:30p.

6. **The Environmental Impact Evaluation (EIE)** of the options in the Water Source Study for the Four Corners Area is due this month. Ponde Place developers may put off doing anything until the Town resolves its water supply issues—in hopes of tapping into new sources.

7. **Adjourned at 8:58p.**

Scott Lehmann, Secretary, 20 April 2012.

Attachment: Lehmann's 04/12 e-mail to Ms. Painter regarding Site Analysis Field Trips

Hi, Linda,

It's a very good idea for the PZC to give developers some direction about open space dedications, clustering, driveway cuts, etc., before they spend a lot of money developing a yield plan. It's also a good idea for the PZC's comments to be informed by a visit to the property—in addition to seeing a map that includes relevant information about forest cover, wetlands, stone walls, large trees, etc.

However, I don't think that this past Tuesday's field trip was particularly worthwhile in this regard. The schedule did not permit the kind of thorough on-the-ground survey that should have been undertaken.

At the site off Meadowbrook Rd, we did not walk the property at all; what was learned by standing by the parked cars and looking at the excellent map supplied by the developer could have been learned more comfortably back in the Town Hall. The experience at Beacon Hill was slightly better, but again lack of time—and, I regret to say, lack of interest on the part of some PZC members—precluded anything resembling a thorough survey (we did not, for example, see anything of the large wetland that bisects the property).


I would suggest that in the future a realistic amount of time be allowed for this sort of site visit—enough to permit those who are interested to walk over the property and to get a grasp of its important features.

I also think it would be a good idea to identify individuals on the PZC, CC, & OSPC who are willing to do such a survey and to schedule the site visit around their availability, with others participating as they have time and interest.

Scott

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: May 2, 2012
Subject: 8-24 Referral: Healey License Request at Common Fields

The following motion has been prepared in response to the discussion at the April 2, 2012 meeting, wherein members requested that the motion in my March 29, 2012 memo (attached for reference) be revised to include a recommendation that the final license incorporate any conditions that might be imposed as part of the Special Permit process for the banquet/assembly venue.

Summary/Recommendation

It is recommended that the PZC notify the Town Council that the proposed license of a portion of the Common Fields is consistent with the Plan of Conservation and Development provided appropriate conditions are placed on the license. While this recommendation is limited to the license request and shall not obligate the Commission to approve any future special permit request for a banquet facility at 476 Storrs Road, it is further recommended that the final license agreement not be drafted or executed until such time as the PZC has completed its review of the anticipated special permit to ensure that any conditions imposed through the special permit process are incorporated into the license agreement, including but not limited to: maintenance obligations, improvements, limitations on frequency/time of use, and maintenance of public access to the pathway at all times.

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development
Date: March 29, 2012
Subject: 8-24 Referral: Healey License Request at Common Fields

Pursuant to the provisions of Section 8-24 of the State Statutes, the above-referenced proposed license of town land has been referred to the PZC for comment. The Town Council has scheduled a Public Hearing on this issue for May 14, 2012, and if possible, comments should be forwarded prior to the Public Hearing. The PZC has 35 days to report to the Town Council. A copy of the Council Agenda Item and location maps are attached for your reference.

The following information is provided for the PZC's consideration.


- Michael Healey is requesting approval of a license for approximately 0.36 acres of the property known as the Common Fields for use as occasional parking to support a proposed banquet venue at 476 Storrs Road.
- The subject property is zoned RAR-90 and is located within the Mansfield Center historic village area.
- The property is identified existing preserved open space on Map 21 - *Existing and Potential Conservation Areas* in the Plan of Conservation and Development (POCD).
- While the Common Fields is currently leased to a local farmer, the portion of the property that is the subject of the license request by Mr. Healey is not in active agricultural production. Due to its separation from the bulk of the field by the public path and the slope of the property, use of the property for occasional parking would not impact the adjacent agricultural operation.
- Due to the slope of the property, views of the parking area from Storrs Road and Bassetts Bridge Road would be limited.
- Approval of the license would facilitate the proposed restoration of the barn at 476 Storrs Road, which is consistent with POCD objectives related to protection of historic and scenic resources.

Summary/Recommendation

As noted above, the proposed license request would support objectives related to preservation of historic and scenic resources in the Plan of Conservation and Development. It is recommended that the PZC notify the Town Council that the proposed license of a portion of the Common Fields is consistent with the Plan of Conservation and Development provided appropriate conditions are placed on the license to ensure that the property is maintained, the frequency of use is limited to ensure that it remains an occasional use, and that public access to the pathway is maintained at all times. Furthermore, it is noted that this recommendation is limited to the license request and shall not obligate the Commission to approve any future special permit request for a banquet facility at 476 Storrs Road.

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: May 3, 2012
Subject: Beacon Estates Section 2 Subdivision Design Process Submission (PZC File 1214-3)

Project Overview

In accordance with Section 5.2 of the Mansfield Subdivision Regulations, Eagleville Development Group LLC has submitted the following plans as part of Step 1 in the required design process for subdivisions containing over 4 lots or a street:

- Off-Site and Neighborhood Influences Inventory Plan
- Site Analysis Plan

The subject property is comprised of a 60.5 acre parcel located on the south side of Mansfield City Road, west of Beacon Hill Drive. The property has approximately 770 feet of frontage along Mansfield City Road, as well as a 50 foot potential right-of-way extending from Beacon Hill Estates Section 1, which connects to the subject property along the southeast boundary.

Preliminary Comments

The following comments and recommendations are based on the submitted materials and site visits made by the PZC on April 10, 2012 and the Open Space Preservation Committee on April 21, 2012, both of which I attended. A copy of the recommendations from the Open Space Preservation Committee and Conservation Commission are attached.

In accordance with Section 5.1 of the Subdivision Regulations, primary considerations in designing streets, walkways/bikeways and other public improvements, lot layouts, proposed locations for houses, driveways, sanitary systems and other site work and identifying open space preservation areas shall be:

The protection and enhancement of vehicular and pedestrian safety through the appropriate siting of streets, driveways, walkways, bikeways and trails.

The subject property has approximately 770 feet of frontage on Mansfield City Road as well as 50 foot stub that was reserved for a future road connection as part of the design of Beacon Hill Estates Section 1. The site analysis plan indicates two potential access points from Mansfield City Road. Of the two potential connections, it appears that the potential western access point would have been sight visibility, though no detail was provided. While the easternmost potential access point would line up with a historic farm lane, its location near the curve in Mansfield City Road would limit sight distance. No detailed information on sight visibility was provided. The site analysis plan recommends a scenic conservation easement along the entire frontage of Mansfield City Road; this recommendation is

supported by the Open Space Preservation Committee. However, vehicular access may be needed to meet emergency access requirements depending on the number of homes proposed. This is an issue that will need to be reviewed more fully with the Fire Marshal during the conceptual design process.

With regard to pedestrian access, there is an existing trail developed as part of Beacon Hill Section 1 that runs along the south side of the property, which connects to a ±51 acre open space dedicated to the town as part of Section 1. This trail leads to and across Coventry Road and connects to Chatham Hill Drive. As noted in the OSPC memo, there is also town open space located on the north side of Mansfield City Road, across from the northwest corner of the subject property. While there is currently no existing trail on this property, the addition of a trail from Mansfield City to Dunhamtown Forest and UConn is a future goal. As such, it is recommended that the design of the new subdivision incorporate a trail connection from the town open space south of Beacon Hill Drive through the property to the northwest corner at Mansfield City Road, where it could connect with a future trail on the north side of Mansfield City Road.

The protection and enhancement of existing and potential public water supply wells and ground water and surface water quality through appropriate design and installation of sanitary systems, roadways, drainage facilities, house sites and other site improvements.

There are no public water supply wells located in close proximity to the property; nor is the property located in an area of stratified drift aquifer. However, the use of Low Impact Development (LID) techniques in road and other site improvement designs should be used to maintain pre-development hydrology.

The protection and enhancement of natural and manmade features, including wetlands, watercourses, aquifer areas, agricultural lands, hilltops or ridges, historic sites and features, expanses of valley floors, interior forests, significant trees and scenic views and vistas on and adjacent to the subdivision site. Wherever appropriate, site features shall be protected through a clustering of streets and house sites and the identification and preservation of significant open space areas including agricultural lands, interior forests and other land without physical limitations.

The following summary of existing conditions was provided by the Open Space Preservation Committee in their April 24, 2012 memo:

- The property is part of a large interior forest tract (250-500 acres). Other adjacent protected lands in this tract include the ±51 acre town open space dedicated as part of Beacon Hill Estates Section 1 along the southeastern boundary and a 64 acre tract owned by the Department of Energy and Environmental Protection (DEEP) along the western boundary. Other significant land in this forest tract includes a tree farm located immediately to the south of the subject property, between the town open space and the DEEP land.
- There is also existing town open space on the north side of Mansfield City Road across from the northeast corner of the property. As noted above, a future trail is planned for this area to connect to the Dunhamtown forest and UConn.
- The site itself is bisected by a wetland-red maple swamp with blueberry and spicebush, and possibly a fringed orchid. There has been significant infestation of barberry in the wetland and adjoining area.

- The site has several significant historic features related to an old farm that was on the property, including: a cellar hole near Mansfield City Road with a well, old machinery, metal debris and a concrete area; a farm lane with double stone wall from the barn area to the wetland; an old barn foundation and well near the farm lane; many stone walls in good condition (often 4 feet high), including enclosures in the eastern half of the property and a continuous wall along the eastern boundary of the wetland. The farm appears to date from the mid 18th to mid 20th century.

Based on the existing natural and historic site features, use of a cluster design to preserve significant open space is recommended for this property. Given the location of the wetland bisecting the property from northwest to southeast, and the adjacent DEEP land to the west of the property, a design that concentrates development on the east side of the wetland and eliminates the need for a wetland crossing is preferred. Preservation of the forest area west of the wetland would link the town open space located south of the wetland to the DEEP property and would create a larger protected forest habitat.

Use of the cluster provisions contained in Section 7.4 of the Subdivision Regulations would allow minimum lot sizes of 40,000 square feet. The Commission is also authorized to reduce minimum frontage requirements pursuant to Section 7.6 of the Subdivision Regulations.

As noted above, the eastern portion of the property contains an extensive stone wall complex, including a historic farm lane bounded by double stone wall, a continuous wall along the east side of the wetland, and various enclosures. These walls should be preserved to the maximum extent possible, particularly along the farm lane and the wetland boundary. Where encroachments are necessary due to the request to concentrate development on this portion of the property, the applicant shall develop a plan to reuse the stones to repair and extend existing walls.

The utilization of a site's natural terrain, avoiding unnecessary re-grading, filling and removal activities.

The property has gentle slopes from 5-6% on most of the property with some locations at a 10% slope. House and driveway placement should be situated to minimize need for grading.

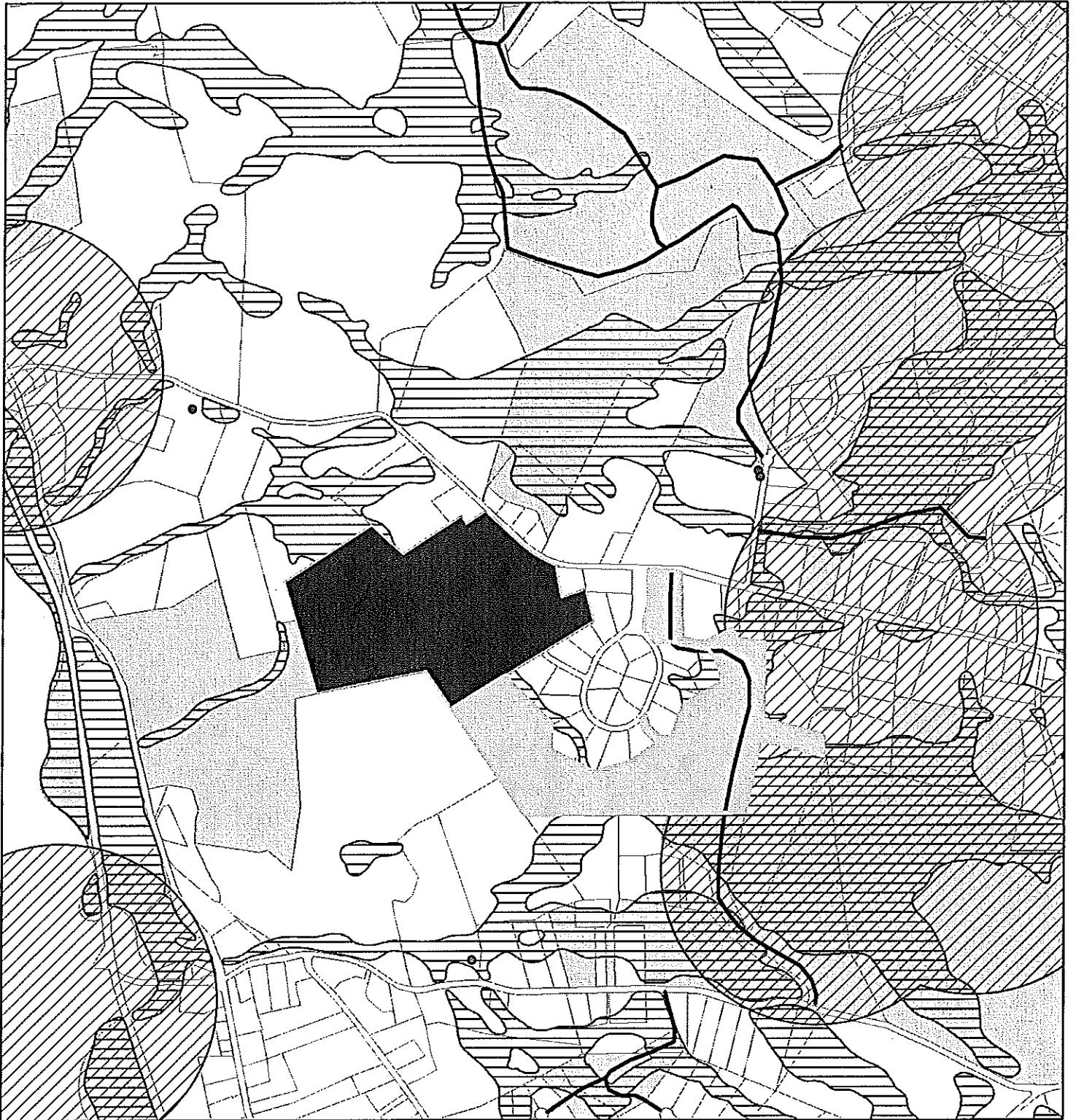
The promotion of energy efficient patterns of development and land use, energy conservation and the use of solar and renewable forms of energy through the appropriate siting of streets, driveways and house sites, and wherever appropriate, bikeway and walkway/trail connections to neighboring streets and neighborhoods; existing and planned commercial areas; schools, parks and other public facilities and town designated walkway or bicycle routes.

As described above, the recommended trail, open space, and cluster designs would promote a more efficient pattern of development that preserves the natural features of the site and offers significant amenities to subdivision and neighborhood residents.






Summary/Recommendations

Based on the above analysis, staff would recommend the following as the developer proceeds to the next stage of the design process, development of a conceptual yield and layout plan(s):

- Include a trail connection between existing town open space and trail located southeast of the property to the northwest corner of the property where it can connect to a future trail on the north side of Mansfield City Road.
- Use cluster development to limit development to east of the wetland, thereby eliminating the need for a wetland crossing, preserving the area west of the wetland as open space, and connecting the existing town open space south of the property with the DEEP land west of the property. In accordance with Section 7.4 of the Subdivision Regulations, the minimum lot size using this approach would be 40,000 square feet. The Commission also has the ability to reduce frontage requirements pursuant to Section 7.6 of the Subdivision Regulations.
- Preserve the farm lane as part of the open space network or as part of property access that preserves the 'lane' view and character.
- Preserve stone walls wherever possible, particularly along the farm lane and along the eastern boundary of the wetland. Where stone walls must be impacted, provide a plan for reuse of the stones in accordance with Section 7.7 of the Subdivision Regulations.
- Preserve scenic views along Mansfield City Road.
- Work with Fire Marshall to determine whether vehicular access to Mansfield City Road is needed.



Beacon Hill Estates Section 2 Location Map

-  Subject Property
-  Wetlands
-  Natural Diversity Database Area
-  Open Space
-  Trails



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Memorandum

May 2, 2012

To: Planning & Zoning Commission
From: Grant Meitzler, Assistant Town Engineer
Re: Preliminary Subdivision Reviews

Bovino Property Subdivision

I have an initial concern over the available sight distance from the easterly Puddin Lane driveway access. Cars approaching up the hill have quite short sight distance - about 180' giving between 3 and 4 seconds of sight time. The visibility is limited by a combination of trees, boulders, raised elevations back from the road edge, and a downhill curve to the south that makes visibility necessary off the paved edge of Puddin Lane. The applicant needs to specifically address improvements to this sight distance.

Sight distance looking to the west from this easterly drive is ample.

The westerly driveway showed very good (8 to 9 seconds) visibility in each direction.

I also note the Nipmuck Trail meets Puddin Lane directly opposite this easterly drive location. This trail shows very evident wear indicating considerable recreational use.

Beacon Hill 2

This subdivision proposes access via a strip left between lots in the Beacon Hill 1 subdivision. The existing road measures 26.5 feet wide at the intersection location. I believe this extra road width (over the usual subdivision road width of 24') should mean that as many as 24 new houses might be built in this subdivision.

The surveyor working on the plans has indicated that no direct new road access to Mansfield City Rd is intended.

Present traffic on beacon Hill Rd is extremely light. During a weekday afternoon count I found only two vehicles in an hour - and in a count including 430 PM I found only 6 vehicles per hour. Visibility to and from the to be proposed intersection is excellent.

The very uniform and gently sloping grades that we saw on the field trip may result in extra care needed for yard and drive grading to avoid local drainage problems.

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April 24, 2012

To: Linda Painter, Director of Planning

From: Open Space Preservation Committee

Re: Beacon Estates Section 2 Site Analysis Assessment

At their April 24, 2012, meeting the Open Space Preservation Committee reviewed the Beacon Estates Section 2 Site Analysis Assessment. Developer Tom Boyle was present. The committee toured most of the property on April 21, 2012. Noted features and recommendations:

Off-Site and Neighborhood Influences

1. Property is part of large interior forest tract (250-500 acres).
2. Protected land in this tract: Ct. DEEP land along west boundary of property. Town open space along south boundary.
3. Other significant land in this tract: A tree farm's natural forest area along south boundary.
4. Entrance to Town Land (formerly Dunnack) on Mansfield City Road across from northwest corner of property. No existing trail on this Town land. Potential for future trail connection through this land to Dunhamtown Forest and on to UConn to the north.
5. Town open space along south boundary has a trail leading to and across Coventry Road to Chatham Hill Drive.

Site Analysis

Natural features: 60.5- acre property 1. area east of wetland is maple woods with many beech saplings 2. west of wetland is drier oak hillside, which was logged within last 10 years. A few large pines and hemlocks. Wetland crosses the property – red maple swamp with blueberry and spicebush. Possibly a fringed orchid. Significant barberry infestation of wetland and adjoining area.

Historical features: Old farm 1. Cellar hole near MC Road with a well, old machinery, metal debris, concrete area. 2. Old barn foundation and well near farm lane. 3. Farm lane with double stone wall from barn area to wetland. 4. Many stone walls in good condition (often 4 feet high), including enclosures in east half of property and a continuous wall along east side of wetland. Dates of farm appear to be from 18th century to mid-20th century.

Recommendations

First priority: Expand preservation of a large interior forest tract by designating the forest area west of wetland as open space. It links adjacent to Town open space to Ct. DEEP property and would create a larger protected forest habitat.

Second priority: Create a trail connection from Town open space south of Beacon Hill Drive to Town open space north of Mansfield City Road (formerly Dunnack).

Priority recommendation: conservation subdivision with house lots east of wetland and designation of Town open space to include farm lane, wetland and forest area west of wetland.

Secondary recommendations: If the priority recommendation is not followed, the committee recommends a conservation subdivision with the following items:

1. Town-owned open-space buffer along the west and south boundaries to increase preserved area of forest and to provide a trail corridor between Town open space and DEEP land.
2. trail access to this buffer area via farm lane from subdivision road
3. open space buffer along Mansfield City Road preserved with a conservation easement rather than Town ownership. Support cul-de-sac access from Beacon Hill Drive rather than from Mansfield City Road.

Other recommendations: 1. Trail access from potential cul-de-sac to Mansfield City Road at a point across from Town land (formerly Dunnack). 2. Preservation of stone walls and designated large trees when possible.

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 18 April 2012
Conference B, Audrey P. Beck Building
(draft) MINUTES

Members present: Joan Buck (Alt.), Robert Dahn, Neil Facchinetti, Quentin Kessel, Scott Lehmann, John Silander. *Members absent:* Aline Booth (Alt.), Peter Drzewiecki Frank Trainor. *Others present:* Linda Painter (Town Planner), Grant Meitzler (Wetlands Agent).

1. The meeting was **called to order** at 7:33p by Chair Quentin Kessel. Alternate Joan Buck was elevated to voting member for this meeting.
2. The draft minutes of the **21 March meeting** were approved as written.
3. **W1493 (Sabatelli, 306 Stearns Rd.)** The Commission declined to comment on this *fait accompli*.

4. PZC Subdivision Design Process Referrals. Recently adopted subdivision regulations require that subdivision developers do a Site Analysis to provide information about wetlands, slopes, stone walls, existing vegetation, and other features of the property before submitting a proposal and yield plan. The idea is to permit the PZC, the Commission, and other Town entities to make site-specific suggestions about development before the developer has spent a lot of money on a detailed subdivision plan.

Linda Painter reviewed site maps provided for two subdivisions: Beacon Hill Estates Section 2 (ca. 60 acres on Mansfield City Rd. adjacent to & northwest of the existing Beacon Hill Estates development) and Bovino Manor (ca. 23 acres between Puddin La. & Conantville Rd. west of Sawmill Brook). {Lehmann's e-mail comment to the Town Planner regarding the 04/10 Field Trip to these sites is attached.} In the course of discussion, the Commission agreed on the following comments & suggestions:



Beacon Hill

- a. The Commission is pleased that a "Scenic Conservation Easement" is suggested along Mansfield City Rd.
- b. However, "Potential Open Space" should not coincide with the undevelopable wetland. At the least, this wetland should be buffered with additional open space.
- c. The Commission suggests that the developer seriously consider clustering development in the front portion of the property, dedicating the wetland and the back portion as open space. This would eliminate a road or common-driveway crossing of the wetland and significantly enlarge the area's contiguous dedicated open space.
- d. To the extent possible, stone walls should be preserved. The Commission notes that there may be tension between preserving existing stone walls and clustering development in the front portion of the property.
- e. The Commission suggests buffering the short "existing trail" on the northwest edge of the existing Beacon Hill development with a conservation easement.

Bovino Manor

- a. It makes sense to protect Sawmill Brook in this reach by conservation areas on the steep slopes at the northeast edge of the properties.
- b. It would be desirable if open space dedications and easements on this property permitted

extending the Nipmuck Trail to Conantville Rd.

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7. Adjourned at 8:58p.

Scott Lehmann, Secretary, 20 April 2012.

Attachment: Lehmann's 04/12 e-mail to Ms. Painter regarding Site Analysis Field Trips

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It's a very good idea for the PZC to give developers some direction about open space dedications, clustering, driveway cuts, etc., before they spend a lot of money developing a yield plan. It's also a good idea for the PZC's comments to be informed by a visit to the property—in addition to seeing a map that includes relevant information about forest cover, wetlands, stone walls, large trees, etc.

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I would suggest that in the future a realistic amount of time be allowed for this sort of site visit—enough to permit those who are interested to walk over the property and to get a grasp of its important features.

I also think it would be a good idea to identify individuals on the PZC, CC, & OSPC who are willing to do such a survey and to schedule the site visit around their availability, with others participating as they have time and interest.

Scott

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: May 3, 2012
Subject: Bovino Manor Subdivision Design Process Submission (PZC File 1308)

Project Overview

In accordance with Section 5.2 of the Mansfield Subdivision Regulations, CMRE LLC has submitted the following plans as part of Step 1 in the required design process for subdivisions containing over 4 lots or a street:

- Off-Site and Neighborhood Influences Inventory Plan
- Site Analysis Plan

The subject property is comprised of two lots, for a total of 26.96 acres. The 4.1 acre parcel at 149 Conantville Road is developed with a house that contains two apartments and a garage apartment. That parcel has ±82 feet of frontage. The adjacent parcel, addressed as 149R Conantville Road, contains 22.86 acres and has ±170 feet of frontage on Conantville Road and two, fifty-foot frontages on Puddin Lane.

Preliminary Comments

The following comments and recommendations are based on the submitted materials and site visits made by the PZC on April 10, 2012 and the Open Space Preservation Committee on April 29, 2012, both of which I attended. A copy of the recommendations from the Open Space Preservation Committee and a letter from John Hankins, owner of 129 Puddin Lane, are attached for your information.

In accordance with Section 5.1 of the Subdivision Regulations, primary considerations in designing streets, walkways/bikeways and other public improvements, lot layouts, proposed locations for houses, driveways, sanitary systems and other site work and identifying open space preservation areas shall be:

The protection and enhancement of vehicular and pedestrian safety through the appropriate siting of streets, driveways, walkways, bikeways and trails.

The subject property has approximately 250 feet of frontage on Conantville Road, and two, fifty-foot wide frontages on Puddin Lane. Given the slope of the undeveloped frontage on Conantville Road, primary vehicular access to the property should be from Puddin Lane to reduce the need for significant regrading. As shown on the site analysis map, the westernmost frontage has better sight distance/visibility along Conantville Road. This conclusion was confirmed by the Assistant Town Engineer, Grant Meitzler, in his memo dated May 2, 2012, where he estimates only 3-4 seconds of sight

time looking east for the easternmost frontage along Puddin Lane. Based on this analysis, the most appropriate vehicular access point for the subdivision is at the westernmost frontage on Puddin Lane.

With regard to pedestrian access, the easternmost frontage along Puddin Lane is directly opposite the southern terminus of the Nipmuck trail. As noted in the April 30, 2012 memo from the Open Space Preservation Committee, there is evidence that the Nipmuck trail originally extended through the subject property. While an extension of the formal Nipmuck trail through the site to Conantville Road may not be feasible, a local trail connection between Puddin Lane and Conantville Road would provide much needed pedestrian access to the commercial areas along 195. Due to existing road configurations, residents of Puddin Lane would need to walk far out of their way to access either Eastbrook Mall or the Big Y shopping plaza. A trail through the property to Conantville Road would improve this access dramatically.

The protection and enhancement of existing and potential public water supply wells and ground water and surface water quality through appropriate design and installation of sanitary systems, roadways, drainage facilities, house sites and other site improvements.

There is a section of stratified drift aquifer running along the eastern portion of the property, most of which is in an area of steep slopes. Installation of septic systems in this area should be avoided if possible to ensure protection of the aquifer. If septic systems are proposed, a written report from a sanitary engineer, geologist or other qualified professional that details the system design, the physical characteristics of the area, existing land uses in the area, and potential short-term and cumulative impacts on identified aquifer areas must be submitted for Commission review and approval (Article VI, Section B.4.m, Zoning Regulations).

The Windham Water Works service area boundary runs through the property. The applicant should consider connecting new homes to the public water supply to eliminate the need for individual wells.

The protection and enhancement of natural and manmade features, including wetlands, watercourses, aquifer areas, agricultural lands, hilltops or ridges, historic sites and features, expanses of valley floors, interior forests, significant trees and scenic views and vistas on and adjacent to the subdivision site. Wherever appropriate, site features shall be protected through a clustering of streets and house sites and the identification and preservation of significant open space areas including agricultural lands, interior forests and other land without physical limitations.

The following summary of existing conditions was provided by the Open Space Preservation Committee in their April 30, 2012 memo:

- The Sawmill Brook stream valley is located along the eastern edge of the property; the brook is located just off of the property. The brook is listed as a 'significant conservation and wildlife resource' in Appendix J of the Plan of Conservation and Development
- The property slopes from west to east in shallow terraces and ridges
- Most of the property is dry forest of mature white pine, sugar maple, red and white oak with understory of young beech. Groundcover is mostly low-bush blueberry
- No wetlands have been noted or identified on the site
- The northern portion of the property contains large boulders
- An old wood road bisects the property from north to south with no connection to a road
- The site was formerly part of the Nipmuck Trail

- No interior stone walls were noted
- The property has locally important farmland soils.

Based on the existing natural and historic site features, use of a cluster design to preserve significant open space is recommended for this property. Use of the reduced lot sizes would protect the natural features of the site including a fairly intact large forest and the Sawmill Brook stream valley and provide an opportunity to create a local open space area with trail connections for neighborhood use.

Additionally, use of Low-Impact Development (LID) techniques for streets and other site improvements is recommended to preserve the pre-development hydrology of the property.

The utilization of a site's natural terrain, avoiding unnecessary re-grading, filling and removal activities.

As depicted on the site analysis plan, there are several areas of steep slopes and varying topography throughout the site. Development should be concentrated in the areas with the least topographical change to minimize the need for re-grading, cut and fill activities. As described above, using a conservation/cluster approach to designing the subdivision would help to preserve the unique features of the site.

The promotion of energy efficient patterns of development and land use, energy conservation and the use of solar and renewable forms of energy through the appropriate siting of streets, driveways and house sites, and wherever appropriate, bikeway and walkway/trail connections to neighboring streets and neighborhoods; existing and planned commercial areas; schools, parks and other public facilities and town designated walkway or bicycle routes.

As described above, the recommended trail, open space, and cluster designs would promote a more efficient pattern of development that preserves the natural features of the site and offers significant amenities to subdivision and neighborhood residents.

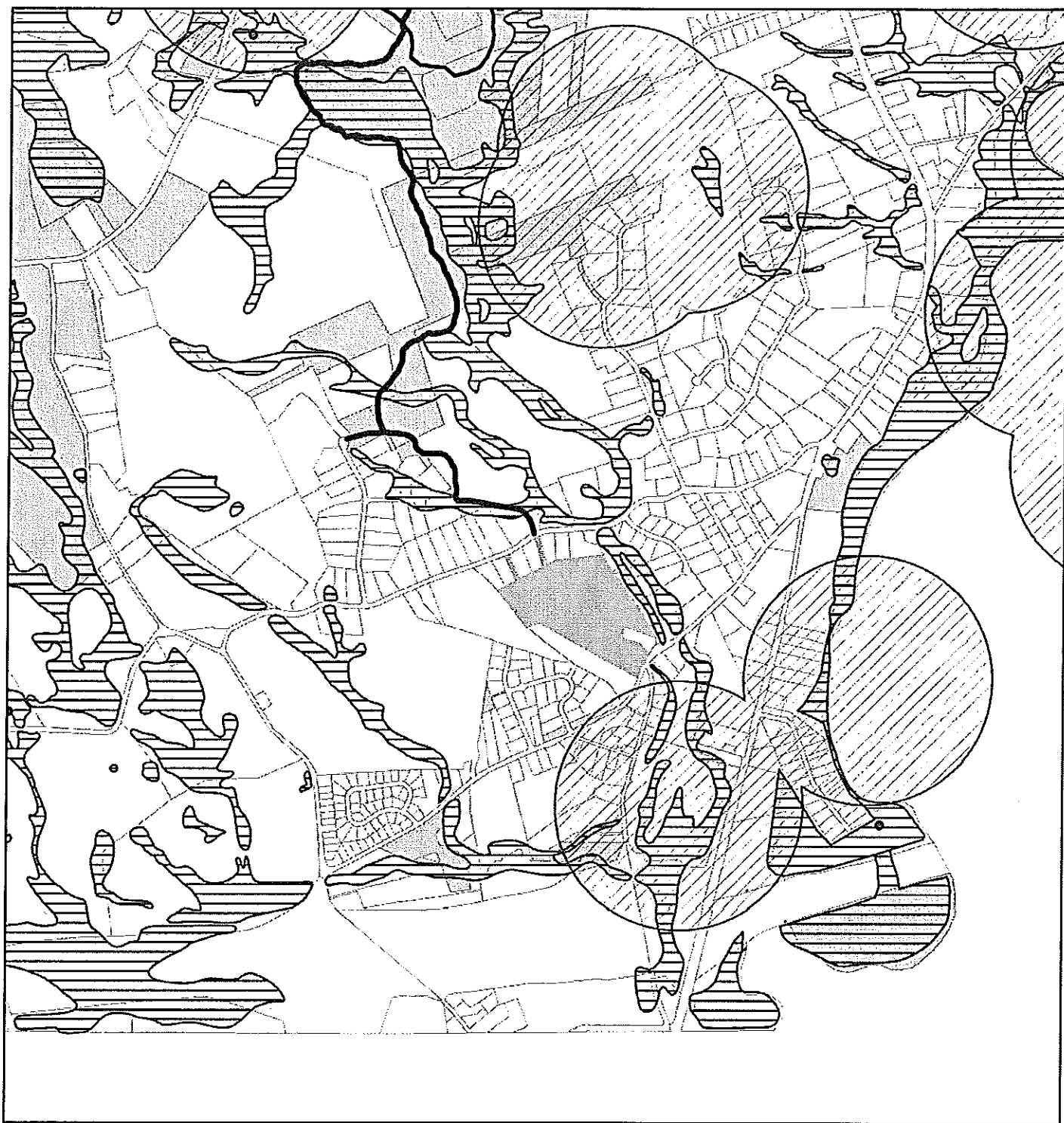
Summary/Recommendations

Based on the above analysis, staff would recommend the following as the developer proceeds to the next stage of the design process, development of a conceptual yield and layout plan(s):





- Limit vehicular access to the westernmost frontage along Puddin Lane (between 147 and 153 Puddin Lane)
- Include a trail connection between the easternmost frontage on Puddin Lane and Conantville Road. As recommended by the Open Space Preservation Committee, this trail connection would ideally follow the old wood road or along the edge of the stream valley, then winding to the west and connecting to Conantville Road via the frontage west of 149 Conantville Road. As this is a local trail connection, no parking area along Conantville Road is recommended. Additionally, a loop trail to the east would provide additional walking opportunities and a view of the Sawmill Brook stream valley. These trails could be part of a larger publicly-accessible open space.
- Use a "cluster development" approach to design to limit the areas of disturbance and protect the natural features of the site by locating development in the area immediately south of the westernmost frontage on Puddin Lane. In accordance with Section 7.4 of the Subdivision Regulations, the minimum lot size using this approach would be 40,000 square feet. The Commission also has the ability to reduce frontage requirements pursuant to Section 7.6 of the Subdivision Regulations. This approach would also have the benefit of providing significant open

space opportunities for both the residents of the subdivision and other residents in this densely populated area of town.

- Preserve the steep slope areas along the eastern boundary that lead to Sawmill Brook either through dedication to the Town or protection through a conservation easement.
- Consider connecting to the Windham Water Works public water supply to eliminate the need for individual wells.
- Incorporate Low Impact Development (LID) techniques into streets and other site improvements to ensure that the pre-development hydrology of the property is maintained.



Bovino Manor Location Map

-  Subject Property
-  Wetlands
-  Natural Diversity Database Area
-  Open Space
-  Trails



PAGE
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April 30, 2012

Ms. Linda Painter
Director of Planning and Development
Town of Mansfield
Audrey P. Beck Municipal Building
4 South Eagleville Road
Storrs-Mansfield, CT 06268

Re: Proposed Development off Puddin Lane

Dear Ms. Painter:

I'd like to again thank you and the Town's Open Space Committee for inviting me on your walkover of the land that is being proposed for a subdivision in the area between Puddin Lane and Conantville Road. As I understand it, the developer is considering using one or both of two right-of-ways off of Puddin Lane for access to the property, which is behind existing houses along Puddin Lane.

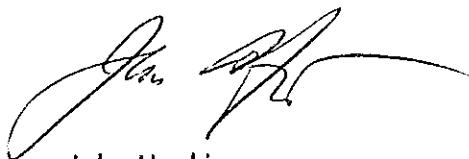
My family has lived at 129 Puddin Lane since 1994, and we have known since we moved in that development in the area behind our house was a possibility. My understanding is that the Nipmuck trail, whose southern terminus is now Puddin Lane, originally passed through our property at 129 Puddin Lane and continued across the proposed development parcel all the way to Park Springs in Willimantic. With the building of the Route 6 connector and the collection of houses that were built on Puddin Lane in the 1970s, the trail terminus was moved northward to its current location.

As the Connecticut Forest and Park Association trail steward for the southern eight miles of the Nipmuck Trail, I have long been interested in a connection of the trail from Puddin Lane to the area to the south. The trail gets heavy use 12 months per year, and it is not uncommon on weekends to have five or six cars parked across the street from our house at the trailhead. Puddin Lane itself also gets heavy pedestrian traffic, and the three mile loop that encompasses Puddin Lane, Mansfield City Road, and Conantville Road is popular among walkers and joggers. A connection for the Nipmuck Trail that connected the current terminus southward to Conantville Road would have enormous benefit to the area. In addition to providing a pedestrian access to the commercial Eastbrook Mall area, it would also provide easy access to the Nipmuck Trail for the residential areas in proximity to the mall. These areas are presently

isolated from the trail by the less direct one mile route along the roads. Similarly, pedestrian access to the mall from our area of Town is currently indirect and awkward.

We are writing to urge the Town and the developer to work together to develop a plan that includes a connector trail between Puddin Lane and Conantville Road. The logical place for this trail to exit onto Puddin Lane would be through the right-of-way that exists immediately west of our property line at 129 Puddin Lane, intersecting Puddin Lane directly across from the existing trailhead. If such a trail was built, I would be pleased to volunteer to mark, maintain, and police the trail in the same manner that I do for the eight miles of Nipmuck Trail to the north. I'd also like to encourage the Town and the developer to design a development that relies on a single entrance to the development that utilizes the western right-of-way to the property. I believe that this approach would be favorable for the following reasons: 1) asphalt footprint of the project would be reduced, 2) Nipmuck Trail would not have to run along a paved driveway, 3) improved safety for motorists, as the sight lines for the western entrance are considerably better.

I'd like to thank you again for your consideration of the Nipmuck Trail in the planning process for the new development and look forward to continued involvement in the process.

A handwritten signature in black ink, appearing to read 'John Hankins', with a long, sweeping horizontal line extending to the right.

John Hankins
129 Puddin Lane
Mansfield Center, CT 06250
johnbhankins@hotmail.com
860-423-9798

C: Connecticut Forest and Park Association

Memorandum

May 2, 2012

To: Planning & Zoning Commission
From: Grant Meitzler, Assistant Town Engineer
Re: Preliminary Subdivision Reviews

Bovino Property Subdivision

I have an initial concern over the available sight distance from the easterly Puddin Lane driveway access. Cars approaching up the hill have quite short sight distance - about 180' giving between 3 and 4 seconds of sight time. The visibility is limited by a combination of trees, boulders, raised elevations back from the road edge, and a downhill curve to the south that makes visibility necessary off the paved edge of Puddin Lane. The applicant needs to specifically address improvements to this sight distance.

Sight distance looking to the west from this easterly drive is ample.

The westerly driveway showed very good (8 to 9 seconds) visibility in each direction.

I also note the Nipmuck Trail meets Puddin Lane directly opposite this easterly drive location. This trail shows very evident wear indicating considerable recreational use.

Beacon Hill 2

This subdivision proposes access via a strip left between lots in the Beacon Hill 1 subdivision. The existing road measures 26.5 feet wide at the intersection location. I believe this extra road width (over the usual subdivision road width of 24') should mean that as many as 24 new houses might be built in this subdivision.

The surveyor working on the plans has indicated that no direct new road access to Mansfield City Rd is intended.

Present traffic on beacon Hill Rd is extremely light. During a weekday afternoon count I found only two vehicles in an hour - and in a count including 430 PM I found only 6 vehicles per hour. Visibility to and from the to be proposed intersection is excellent.

The very uniform and gently sloping grades that we saw on the field trip may result in extra care needed for yard and drive grading to avoid local drainage problems.

PAGE
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April 30, 2012

To: Linda Painter, Director of Planning
From: Open Space Preservation Committee
Re: Bovino Manor Site Analysis Plan

At their April 24, 2012, meeting the Open Space Preservation Committee reviewed the Bovino Manor Site Analysis Plan. The committee toured most of the property on April 29, 2012, and made further recommendations. Noted features and recommendations:

Off-Site and Neighborhood Influences

1. The Sawmill Brook stream valley on the east side of property (brook is located just off the property). This brook is listed as a "significant conservation and wildlife resource" in Appendix J of the Plan of Conservation and Development.
2. Entrance to Nipmuck Trail across Puddin Lane from property's eastern access point.
3. Property is surrounded by house lots; a commercial area and multi-family complex is located south of Conantville Road.
4. No public-access open space in this neighborhood.

Site Analysis

Natural features: 22-acre parcel. 1. Property sloping west to east in shallow terraces and ridges. 2. Most of property is dry forest of mature white pine, sugar maple, red and white oak with understory of young beech. Ground cover mostly low-bush blueberry. Minimal deer browse noted. 3. No wetlands noted. 4. Invasive plants: some autumn olive in the open area by Conantville Road frontage. 5. Northern part of property has large boulders.

Historical features: Old wood road bisecting most of property from north to south with no access from a road. Formerly part of the Nipmuck Trail. No interior stone walls noted.

Recommendations

1. *Open space access* This densely developed part of town does not have public-access open space. The property offers the last opportunity to create such an area in the Conantville neighborhood. Town-owned open space in this subdivision would offer residents access to a natural area for walking and relaxation.
2. *Walkable community* Creating alternative ways to travel and opportunities for healthy exercise are overall Town goals. This property offers opportunities to promote those goals, as follows.
3. *Connecting trail* The committee recommends that the subdivision include a trail connecting Puddin Lane (via its eastern access point) to Conantville Road. The trail may need an easement through the area of house lots. This trail should not be part of the Nipmuck Trail; rather it would serve only as access to the open space area and as a connection between Puddin Lane and Conantville Road. For Conantville residents, a connecting trail would offer access to the

Nipmuck Trail. Conversely, a connecting trail would provide access for residents of Puddin Lane to the commercial area off Conantville Road. (There is an existing pedestrian access to East Brook Mall from Conantville Road.) The committee does not recommend a parking area by this trail on Conantville Road.

4. *Loop trail* The connecting trail could follow the old wood road. A loop trail to the east would provide additional walking opportunities and a view of the Sawmill Brook stream valley. Another alternative is to locate part of the connecting trail along the edge of the stream valley.

5. *Stream valley protection* The area sloping down to Sawmill Brook should be protected either by Town ownership or a conservation easement.

6. *Conservation subdivision* The committee recommends a conservation subdivision plan with access via the western access point on Puddin Lane. This would offer the best opportunity to create a local open space area with trails, preserve a fairly intact mature forest large enough to be useful ecosystem, and provide maximum protection for Sawmill Brook.

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 18 April 2012
Conference B, Audrey P. Beck Building
(draft) MINUTES

Members present: Joan Buck (Alt.), Robert Dahn, Neil Facchinetti, Quentin Kessel, Scott Lehmann, John Silander. *Members absent:* Aline Booth (Alt.), Peter Drzewiecki Frank Trainor. *Others present:* Linda Painter (Town Planner), Grant Meitzler (Wetlands Agent).

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Scott Lehmann, Secretary, 20 April 2012.

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Scott

RECEIPT OF APPLICATION FOR A SPECIAL PERMIT:

_____, move and _____ seconds to receive the

Special Permit application (file #1309)

submitted by Mason Brook, LLC-Christopher Kueffner

for the removal of 4,200 cubic yards of earth material, regrading and associated site work

on property located at 3 Merrow Road

as shown on plans dated 4-17-12


as shown and described in application submissions, and to refer said application to staff and committees, for review and comments and to set a Public Hearing for 5-21-12.

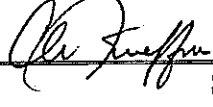
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SPECIAL PERMIT APPLICATION
(see Article V, Section B of the Zoning Regulations)

Mansfield Planning and Zoning Commission

File # 1309
Date 4-23-12

1. Name of development (where applicable) Merrow Corn Maze
2. Proposed use of the property is agricultural field with enhanced productivity from regrading in accordance with Sec.(s) D of Article VII (Permitted Use provisions) of the Zoning Regulations
3. Address/location of subject property 3 Merrow Road
Assessor's Map 07 Block 12 Lot(s) 03 Vol. _____ Page _____
4. Zone of subject property RAR-90 Acreage of subject property 10 acres
5. Acreage of adjacent land in same ownership (if any) 0
6. APPLICANT Mason Brook LLC, Christopher Kueffner 
(please PRINT) Signature
Street Address 192 Ravine Rd Telephone 860-805-3276
Town Storrs Zip Code 06268

Interest in property: Owner X Optionee _____ Lessee _____ Other _____
(If "Other", please explain) _____
7. OWNER OF RECORD: Mason Brook LLC 
(please PRINT) Signature
(OR attached Purchase Contract _____ OR attached letter consenting to application _____)

Street Address 192 Ravine Rd Telephone 860-805-3276
Town Storrs Zip Code 06268
8. AGENTS (if any) representing the applicant who may be directly contacted regarding this application:

Name Stephen A. Filip Telephone 860-429-3658
Address Filip Associates, 497 Middle Tpk, Storrs, CT Zip Code 06268
Involvement (legal, engineering, surveying, etc.) preparation of site plan

(over)

9. The following items have been submitted as part of this application:

_____ Application fee in the amount of \$ _____

✓ Statement of Use further describing the nature and intensity of the proposed use, the extent of proposed site improvements and other important aspects of the proposal. To assist the Commission with its review, applicants are encouraged to be as detailed possible and to include information justifying the proposed special permit with respect to the approval criteria contained or referenced in Article V, Section B.5.

✓ Site plan (6 copies) as per Article V, Section B.3.d

✓ Site plan checklist including any waiver requests

N/A Sanitation report as per Article V, Section B.3.e

✓ Acknowledgement that certified notice will be sent to neighboring property-owners, as per the provisions of Article V, Section B.3.c (use Neighborhood Notification Form).

N/A As applicable for projects within the watershed of the Willimantic Reservoir, acknowledgement that certified notice will be sent to the Windham Water Works, as per the provisions of Article III, Section 1.

N/A As applicable for projects within State designated aquifer protection areas, acknowledgment that the Commissioner of Public Health will be notified as per the provisions of Article III, Section 1. The State Department of Public Health's on line form (www.dph.state.ct.us/BRS/Water/Source_Protection/PA0653.htm) shall be used with a copy of the submittal delivered to the Planning Office.

_____ Other information (see Article V, Section B.3.g). Please list items submitted (if any):

10. ALL APPLICATIONS, INCLUDING MAPS AND OTHER SUBMISSIONS, MUST COMPLY WITH ALL APPLICABLE SECTIONS OF THE ZONING REGULATIONS, INCLUDING, BUT NOT LIMITED TO:

Art. X, Sec. E, Flood Hazard Areas, Areas Subject to Flooding

Art. V, Sec. B, Special Permit Requirements (includes procedure, application requirements, approval criteria, additional conditions and safeguards, conditions of approval, violations of approval, and revisions)

Art. VI, Sec. A, Prohibited Uses

Art. VI, Sec. B, Performance Standards

Art. VI, Sec. C, Bonding

Art. VII, Permitted Uses

Art. VIII, Dimensional Requirements/Floor Area Requirements

Special Permit Application
Mason Brook LLC, Christopher Kueffner
3 Merrow Road, Storrs, CT

April 19, 2012

STATEMENT OF USE

The proposed work is to regrade and an agricultural field of approximately 4 acres of land currently in agricultural use. The proposed work will not detrimentally affect the public health, welfare, or safety and, in fact, will improve the agricultural use of this land in a manner that is expressly consistent with Article Ten, Section H.1 of the Mansfield Zoning Regulations:

- Protect Mansfield's natural resources by reducing the erosion that currently occurs on this field because of the topography and runoff from Route 32;
- Promote safe site conditions by creating a gently sloping field, reducing the risks of using farm equipment on steep and erratic slopes;
- Provide for appropriate future uses of the property by improving field conditions for agricultural use (crops, grazing, corn maze);
- Promote the goals, objectives, and recommendations of the Plan of Conservation and Development, which include preserving and encouraging retention/expansion of agricultural uses by improving the agricultural conditions and ease of farming on this land.

The details of the gravel removal and grading are detailed below.

- Remove approximately 4200 cubic yards of material, which is the amount estimated to create a gentle grade on this field.
- Redistribute topsoil to areas that are currently washed out due to erosion from road runoff (Route 32).
- Repair runoff culvert from state road that has been damaged due to aging and erosion.
- Regrade the land to create an agricultural field with a gentle and uniform slope that is safer to farm, more productive due to topsoil redistribution, and more protective of natural resources because of reduced erosion.
- Additional details on the operation (the information required in section H.3.a.) can be found on the site plan map.

REQUEST FOR WAIVER FOR STATEMENT OF USE INFORMATION

The Statement of Use (above) and the attached Site Plan provide sufficient information for the Commission to determine compliance of this minor activity with the regulations.

In accordance with Article Ten, Section H.4, I request a waiver of submission of the following requirements, because the proposed use is for minor excavation and grading

associated with existing agricultural use. This information is clearly not needed to determine compliance with the regulations and the requirement to provide this information imposes an undue hardship and unnecessary expense for an agricultural use.

- A data accumulation plan, with Class D and TD certification, and prepared by a licensed professional land surveyor, showing the offsite information listed in Section H.3.b.

NOTIFICATION OF NEIGHBORING PROPERTY OWNERS

I will notify in writing all property owners within 500 feet of the perimeter of the property boundaries of this site of this special permit application. I will send such notice on the Neighborhood Notification Form by certified mail at least 10 days prior to the date of the public hearing scheduled by the Commission. I shall provide a copy of this notice and a listing of property owners notified to the Mansfield Planning Office at least 5 days prior to the public hearing.

In addition, in accordance with PA 87-307, I will notify the clerk of the Town of Coventry of this special permit application because the property is within 500 feet of the Coventry town boundary. I will issue this notice by registered mail within 7 days of the receipt of the application by the Commission.

MAP CHECKLIST

FOR USE WITH SITE PLAN OR SPECIAL PERMIT APPLICATIONS

(To be submitted by applicant with other application materials)

PZC File # _____

Date _____

Name of Development MERROW CURN MAZE

Applicant MASON BRUOK, LLC / CHRISTOPHER KUEFFNER

This checklist is designed to assist applicants as well as the PZC and staff. It is not intended as a substitute for, nor does it contain all of, the information and requirements in the Zoning Regulations and other applicable Town Ordinances and requirements. It is important to note that the Zoning Regulations allow the PZC to waive certain site plan requirements for minor applications where the information is not needed to determine compliance with the Regulations. It is recommended that the Mansfield Director of Planning be contacted if an applicant intends to seek a waiver of certain site plan requirements or if any questions arise. **Any requested waivers must be identified on this checklist.**

Unless waived by the Planning & Zoning Commission, submitted site plans shall include the following information (for more complete and specific descriptions of site plan requirements, see Article V, Section A.3.d of the Zoning Regulations):


	Included	Not Included	Waiver Requested* (see p. 3)
1. Title block: Applicant and owner's name, scale, date & all revision dates	<u>✓</u>	<u> </u>	<u> </u>
2. Original signature/seal of surveyor, landscape architect and/or engineer responsible. Unless waived, survey to be to A-2 standards	<u> </u>	<u> </u>	<u>✓</u>
3. Location map at 1"=1,000' scale (see Art. V. Sec. A.3.d.4 for more details)	<u>✓</u>	<u> </u>	<u> </u>
4. Property lines, sq. footage, setback lines, N. arrow, zone(s)	<u>✓</u>	<u> </u>	<u> </u>
5. Edges of adjacent street, utility poles & underground lines, stone walls, fences, roadside features	<u> </u>	<u> </u>	<u>✓</u>
6. Names/addresses of abutting property owners, including those across street (for Special Permit property owners, within 500 ft. of site)	<u>✓ on attached/accompanying list</u>	<u> </u>	<u> </u>
7. Existing & proposed buildings, structures, signs, floor plans, buildings on adjacent land that may be affected	<u>N/A</u>	<u> </u>	<u> </u>
8. Existing & proposed contours, quantity of material to be added or removed	<u>✓</u>	<u> </u>	<u> </u>

(con't.)

	Included	Not Included	Waiver Requested* (see p. 3)
9. Watercourses, wetlands, flood hazard areas, aquifers	<u>✓</u>	_____	_____
10. Exposed ledge, areas shallow to bedrock	<u>✓</u>	_____	_____
11A. Waste disposal, water supply facilities	<u>✓</u>	_____	_____
11B. Test pit & percolation test locations & findings (include test dates)	<u>N/A</u>	_____	_____
12A. Existing & proposed drainage facilities, roadways, bridges, pedestrian ways, utilities (including construction details)	<u>✓</u>	_____	_____
12B. Existing & proposed easements, rights-to-drain	<u>N/A</u>	_____	_____
12C. Proposed sediment & erosion controls	<u>✓</u>	_____	_____
13A. Existing & proposed offstreet parking & loading areas, fire access lanes	<u>✓</u>	_____	_____
13B. Outside storage & refuse areas, fuel & chemical storage tanks	<u>✓</u>	_____	_____
14. Existing & proposed fencing, walls, landscaping (including plant size & type, historic features)	<u>N/A</u>	_____	_____
15. Existing & proposed outdoor illumination (including method & intensity of lighting)	<u>N/A</u>	_____	_____
16. Existing & proposed outdoor recreation features, with construction details for any recreation improvements	<u>N/A</u>	_____	_____
17. Other information (see Art. V, Sections A.3.g, B.3.g)	<u>✓</u>	_____	_____

Note: For non-exempt applications subject to Sand and Gravel regulations (Art. X, Sec. H), additional special application provisions must be met.

CHRISTOPHER KUEFFNER
(PRINT) Name of individual completing this form


Signature

4/22/12
Date

(con't.)

MAP CHECKLIST – Explanation of Waiver Requests

2. Original signature, seal of surveyor is provided. Survey is Class D survey, as noted on map. This level of detail should be sufficient for the requested activity.
5. Utility poles not noted on map -- not necessary for the requested activity.
6. Names and addresses of abutting property owners is provided on the map. A separate list of property owners within 500 feet is provided on as a separate list.

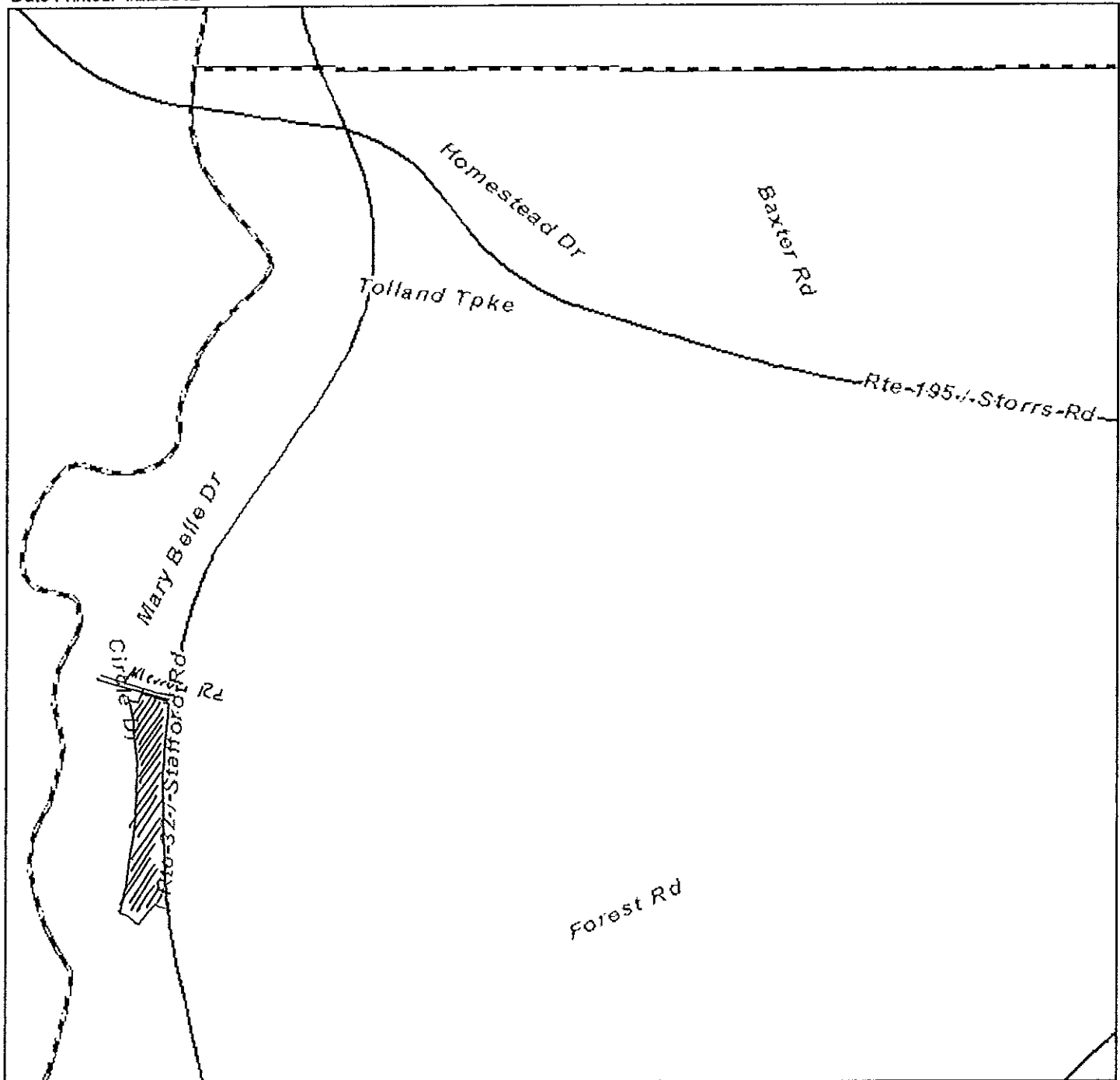
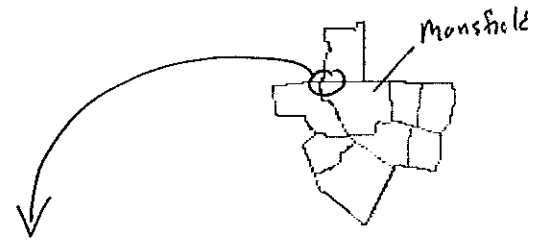
WINCOG

Geographic Information System (GIS)

Location Map 1" = 1000'

3 Mervow Rd, Storrs

Date Printed: 4/22/2012



MAP DISCLAIMER - NOTICE OF LIABILITY

This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user. The WINCOG and its mapping contractors assume no legal responsibility for the information contained herein.

Approximate Scale: 1 inch = 1000 feet

0 1,000 Feet



Land Use: Ganja In The Land Of Steady Habits
Connecticut Law Tribune
Monday, April 09, 2012
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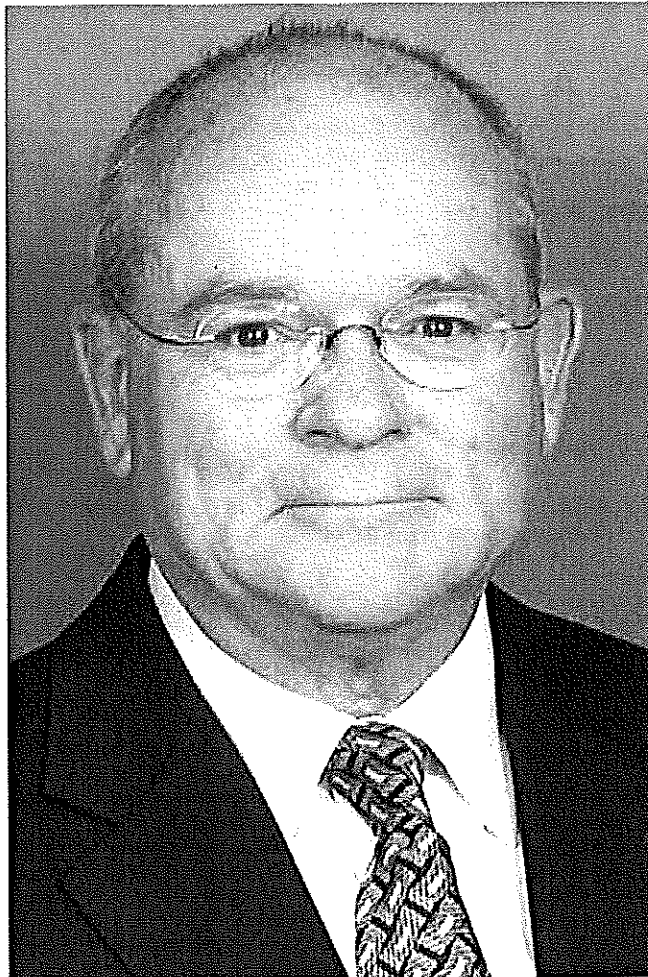
Ganja In The Land Of Steady Habits

Medical marijuana cultivation, distribution is a complicated business for state and local government

By DWIGHT H. MERRIAM

In the 2011 legislative session, the Connecticut General Assembly decriminalized the possession of small amounts of cannabis sativa L. or 9-tetrahydrocannabinol, abbreviated as THC (Public Act 11-71), and came surprisingly close to legalizing medical marijuana. If the bill had become law, Connecticut would have joined 16 other states (including Maine, New Jersey, Rhode Island and Vermont in the Northeast) and the District of Columbia in legalizing medical marijuana. This year, medical marijuana legislation is again pending in Connecticut (House Bill 5389), and under consideration in 17 other states.

Images



Law Tribune file photo

Dwight Merriam is a partner at Robinson & Cole where he focuses on land use law.

Last year's proposal parroting legislation in several states was lacking in some respects. This year's version addresses some of the prior shortcomings. Making the use of marijuana legal for medicinal purposes is not as simple as it might seem. Consideration must be given to the production, distribution, prescription, sales, possession, and use if this drug is to be available in a controlled and orderly manner. It requires a state-local partnership with the best enabling legislation possible and adequate support and guidance for local licensing and land use regulation. This article is not a critique of the past or present proposed legislation. It is intended to highlight the issues and point out the challenges ahead for local governments if medical marijuana is legalized and to suggest actions they might consider in order to be prepared.

As far back as the 3rd Millennium marijuana was used recreationally. Religious use dates back before the Common Era when the pyramids were built. It became widely popular in the United States in the 1960s as represented in the movie Easy Rider, even though it was and remains illegal under federal and many state laws.

Cannabis can be a highly effective palliative that lessens chronic pain, lowers the intraocular pressure of glaucoma, and reduces nausea and stimulates appetites in AIDS patients and recipients of chemotherapy. In July 2011, the U.S. Drug Enforcement Administration, ruling on a 2002 petition to reclassify marijuana to enable its use for medical purposes, denied it, holding that marijuana has "no accepted medical use" and should remain illegal under federal law.

What are the principal state and local legal and planning issues in the cultivation, dispensing, possession, and use of medical marijuana? How will consideration of these issues shape public decision making?

Fortunately, the legal standard for defensible planning and regulation is minimal. When it comes to medical marijuana, there is no fundamental right or suspect classification at stake, so state and local law need only bear a rational relationship to a permissible governmental objective.

State Enabling Law

The state enabling statutes establish the allocation of authority for medical marijuana licensing and regulation. The enabling statutes in other states range from highly detailed to woefully vague. Many have given over most licensing and regulation to local governments, whereas Connecticut is considering much greater state control. In California, you can have dispensaries in addition to collectives that cultivate and distribute marijuana, while Colorado was for many years silent on dispensaries, and Hawaii prohibits them.

State legislation needs to be comprehensive covering all aspects from cultivation through use with sufficient guidance that local governments can implement programmatic elements. The challenge for cities and towns in Connecticut will be to develop local plans and regulations, and local commercial laws, to facilitate and control production, storage, and dispensing of the drug.

Line Between Licensing, Zoning

Zoning is about land use; licensing is about regulating the business and other activities that have no impact on land use. Local medical marijuana regulation sometimes blurs the line.

In Maine, for example, the state law limits cultivation by users or caregivers to just six plants, not more than three of which may be mature. The Connecticut proposal last year limited caregivers and patients to four plants, not over four feet tall, grown in a "secure indoor facility" which was undefined. This year, all that is gone and instead the Commissioner of Consumer Protection is given the responsibility and broad authority for determining when, where, how many, and how "licensed producers" can grow their crop. There is a non-refundable minimum \$25,000 application fee required of any potential producer.

Limitations on possession are not zoning issues, and if local regulation is even needed — it may not be as the state law is probably self-executing — it should be by a general ordinance. Cultivation, however, is most certainly a zoning issue. What if a municipality wants to zone out all production and dispensing of marijuana? Some towns may believe that cultivation and dispensing have "secondary effects," a term sometimes used when addressing the off-site impacts of adult entertainment or places where alcoholic beverages are sold or consumed. Those towns may attempt to prohibit or severely restrict the locations of cultivation and dispensing on the basis of their claim of secondary effects.

Municipalities may wish to consider other issues. Can marijuana be grown in a storefront or in a greenhouse on a small farm? Is it a permitted general agricultural use under the local definitions? Will local governments seek to impose their own security requirements? Connecticut planners are an active group on so many issues. They post frequently on their popular list serve and they have already begun discussing how local elected and professional planners will address medical marijuana issues. One planner posted this inquiry which received several responses: "Now that medical marijuana is rolling right along, have any communities discussed limiting dispensaries that only distribute this item?"

How does the marijuana get from the cultivation, to the caregiver, to the patient? Colorado did not enact dispensary regulations until last year. Yet, Boulder has more dispensaries than Starbucks and liquor stores combined. When the city of Los Angeles finally faced up to its dispensary proliferation problem, there were over 1,000. L.A. is trying to get that number down to 100 or so. The Connecticut proposal appropriately proposes a state-level planning process leading to limits on the number and locations of dispensaries. Can and will local governments in Connecticut simply zone them out? Will there be the equivalent of "dry" towns? The Wall Street Journal recently reported that Danville and San Bruno, Calif., have joined at least 20 other towns in the Bay Area that have banned medical marijuana dispensaries.

No states prohibit a distancing requirement, so to avoid concentrations of dispensaries or cultivation collectives, there might be some state or local separation requirement, say at least 1,000 feet. That could be a local zoning matter. The

approach in Los Angeles is exemplary: the city determines the need in each of its 35 planning areas and allocates accordingly. Service levels range from one dispensary per 35,000 (San Francisco), to 57,000 (Los Angeles), to Oakland (105,000).

Arizona voters last November approved an initiative legalizing medical marijuana. Already, local regulations requiring setbacks from schools and playgrounds, and distancing requirements between dispensaries, have so constrained the possible number of locations that in places like Pima County there are only a few rural sites available.

Secondary Impacts

The City of Clare, Mich., adopted compelling findings reciting the studies and experience elsewhere of the blighting and other secondary effects of marijuana operations. The California Police Chiefs Association identified the adverse impacts of medical marijuana dispensaries to include: attacks and murder of dispensary operators to get the large amounts of cash they have, drug dealing, sales to minors, loitering, traffic congestion, increased noise, robberies of customers, firearms on the properties and their use by perpetrators, unhealthy mold from large indoor growing operations, money laundering...and the list goes on. Studies of secondary impacts elsewhere can support state and local regulation.

Definitions Are Critical

All of the state enabling laws' definitions are deficient in some respects. Even more detailed definitions are needed locally. What is a "producer" as contrasted with a production location? Is a producer an individual or business entity totally within the jurisdiction of the state? Does that leave the production location largely a local zoning issue subject to the state's limit on the number of producers and any locational restrictions the state may adopt? What is a dispensary, under state law and under local zoning? Is a "dispensary" a person or a place? Is a pharmacy with less than 10-percent of its revenue from medical marijuana sales a different kind of land use than a dispensary selling only marijuana? If separation requirements are imposed, what is a school, a park, a playground, a place where children gather?

Location Determinations

Local zoning authorities will need to decide on appropriate locations for dispensaries and cultivation. Do they have the expertise to do that? Can they afford the cost of consultants to help them? In other states, there have been controversies as to whether grow operations can be a home occupation? Should floor areas be limited for cultivation to avoid large grow operations? Or might it be better to have just a few, large production locations?

Other Aspects

Can marijuana be consumed on site? Can children enter? Security to prevent crime? Signage? Hours of operation? Size, location (inside or outside only), and screening of the growing area? Number of plants? All these issues and more have been raised elsewhere.

Federal Law

The joke of President Barack Obama's non-enforcement policy is that his non-enforcement policy is not enforceable. Marijuana is still a Schedule 1 controlled substance, along with heroin and others, and federal authorities still raid places and arrest people. To possess marijuana in a leased premises, in violation of federal law, is a breach of the lease in many cases. There are insurance issues and potential breaches of mortgage and loan covenants. The Tucson-based real estate company, Larsen Baker, simply will not rent to dispensaries. The latest guidance from the Department of Justice was issued on June 29, 2011: "Persons who are in the business of cultivating, selling or distributing marijuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act, regardless of state law. Consistent with resource constraints and the discretion you may exercise in your district, such persons are subject to federal enforcement action, including potential prosecution. State laws or local ordinances are not a defense to civil or criminal enforcement of federal law with respect to such conduct, including enforcement of the CSA. Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financial laws."

When the Oakland, Calif., City Council began an effort to develop large, indoor growing operations which would produce 20 times the amount needed for use in the city, the U.S. Attorney for the Northern District of California, Melinda Haag, told them the farms would violate federal law and the council members could be prosecuted. Oakland abandoned its plans. In March, Colorado U.S. Attorney John Walsh sent letters to the owners of 25 medical marijuana dispensaries telling them that they could be prosecuted and have their property seized if they did not shut down their dispensaries in the next month and a half. All of the dispensaries are located within 1,000 feet of a school.

Landlords face prosecution. Jonathan Janetski of Kallispell, Mont., had no criminal record, but was charged with conspiracy for renting space to a marijuana operation that was legal under state law. Janetski has entered into a plea agreement and is scheduled to be sentenced April 19 and, under current guidelines, will likely get 30 to 36 months in federal prison.

The weight of the literature, contrary to the DEA's recent decision, is that cannabis can benefit chronically ill and dying patients. It is appropriate to consider how to make it legal for them to get their medicine. A good state enabling law, the right local planning and regulation, a coordinated state and local approach to implementation, and definitive regulation for the cultivating, prescribing, dispensing, possessing, and using medical marijuana can help meet this need and protect the public.♦

ZONING BOARD OF APPEALS

DECISION NOTICE

On April 11, 2012, the Mansfield Zoning Board of Appeals took the following action:

Approved the application of Roger Manning for a Variance of Article VIII A to construct a 12' x 16' shed 10' from the front property line where 60' is required at 31 Higgins Hwy, as shown on submitted plan.

In favor of approving application: Accorsi, Clauson, Katz, Pellegrine, Welch

Reasons for approving application:

- Topography
- History of flooding

Application was approved.

Additional information is available in the Town Clerk's Office.

Dated April 12, 2012

Alicia Welch
Vice-Chairman

PAGE
BREAK

April 23, 2012

Town Clerk's Office
Mary Stanton, Town Clerk
Town of Mansfield
Mansfield, Ct. 06268

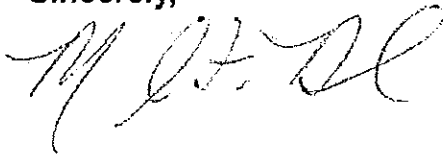
Dear Ms. Stanton,

This letter shall serve as notice of my resignation from the Planning and Zoning Commission / Inland Wetlands Agency, effective April 22, 2012.

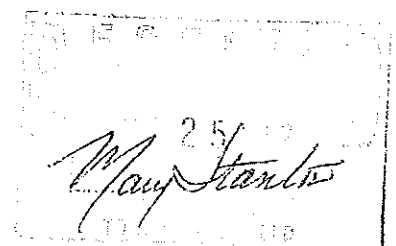
I was selected by the Democratic Town Committee in April, 2007 to fill a vacancy on the commission. In November, 2009 I won voter approval for a six year term.

It has been a privilege serving on the PZC in the company of a dedicated membership and highly professional staff.

Sincerely,



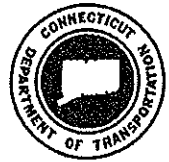
Michael F. Beal
159 Puddin Lane
Mansfield Center, Ct. 06250



PAGE
BREAK



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone:

April 13, 2012

Mr. Matthew W. Hart
Town Manager
Town of Mansfield
4 South Eagleville Road
Mansfield, CT 06268

Dear Mr. Hart:

Subject: State Project No. 474-0073
Construction of a Windham Regional Transit District Bus Facility
Mansfield

The Connecticut Department of Transportation's (Department's) Office of Engineering is developing plans for the construction of a bus facility on South Frontage Road adjacent to the commuter lot near Route 195 in Mansfield, as depicted on the enclosed location plan. The purpose of this project is to construct a new bus administration, repair, and storage facility for use by the Windham Regional Transit District (WRTD). WRTD currently operates out of an inadequate leased administration facility with outside bus storage on Ash Street in Willimantic.

The project involves the construction of two buildings. The first building will include 3,600 square feet for administrative offices and 4,330 square feet for vehicle repair bays. This building will be a single-story, steel-framed building with masonry and metal siding. The second building will include 14,626 square feet for enclosed vehicle parking. This single-story pre-engineered building will be metal sided. The project also includes site improvements and utilities to support the new buildings. A preliminary set of plans are enclosed.

The present schedule indicates that final design plans will be available in December 2012. The funding source (state, federal, or state/federal) has not been determined at this time.

It is the Department's policy to keep the public informed when such projects are undertaken. It is important that the community share their concerns with us to assist in the project's development. Accordingly, the enclosed news release describing the proposed project is scheduled to be released shortly. If there is adequate interest, an informational meeting will be conducted. At this time, it is not anticipated that a formal public hearing will be necessary.

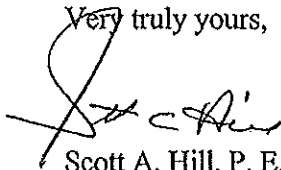
Mr. Matthew W. Hart

- 2 -

April 13, 2012

Members of my staff will be contacting you shortly to discuss this project. Should you or any of your constituents have any questions, or wish to assist us in this project, please contact me at the letterhead address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott A. Hill", written over a large, stylized "S" that serves as a flourish.

Scott A. Hill, P. E.
Manager of Bridges and Facilities
Bureau of Engineering and
Construction

Enclosures

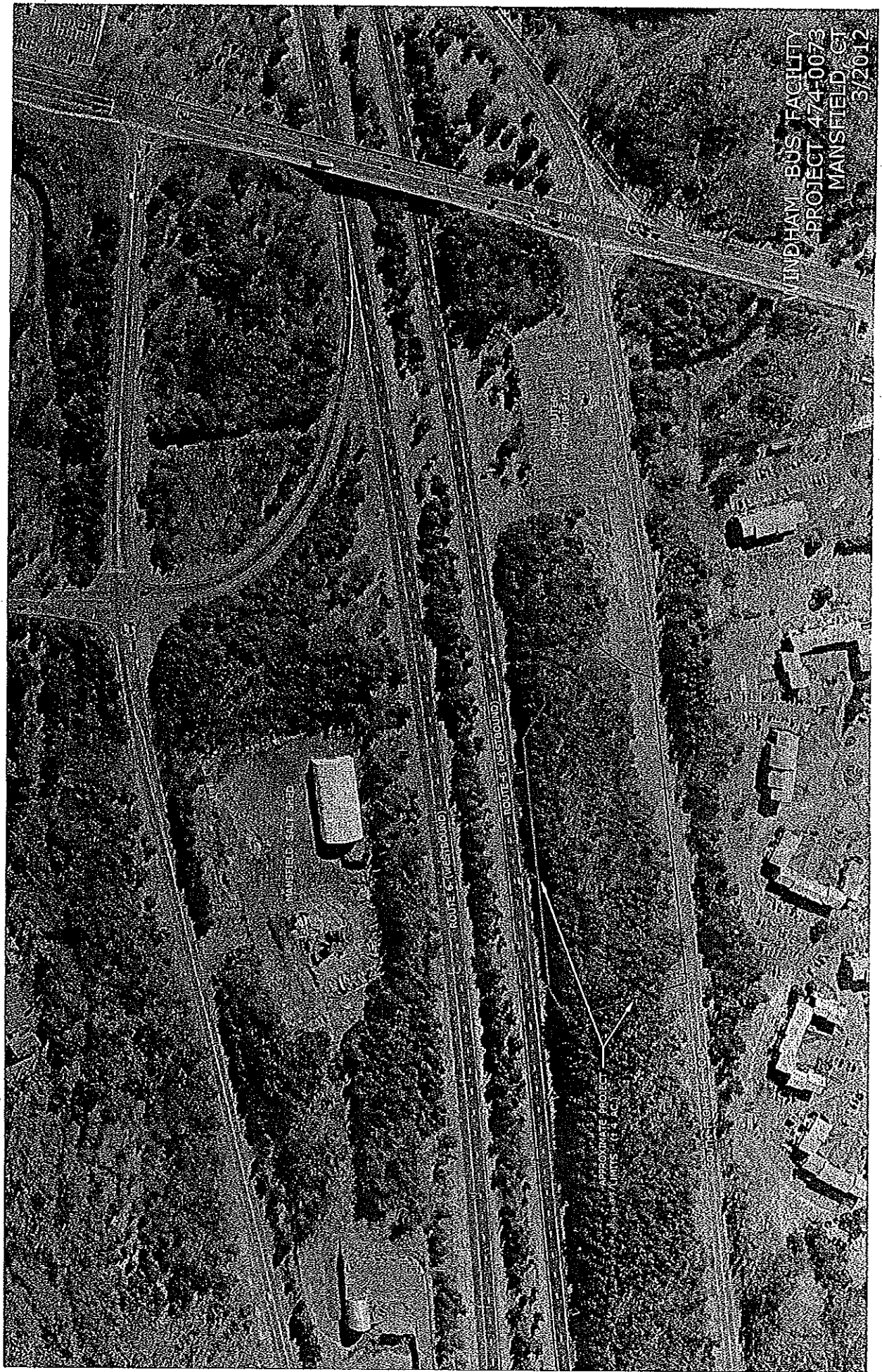
NEWINGTON, CT – The Connecticut Department of Transportation's (Department's) Office of Engineering is developing plans for the construction of a bus facility on South Frontage Road adjacent to the commuter lot near Route 195 in Mansfield. The purpose of this project is to construct a new bus administration, repair, and storage facility for use by the Windham Regional Transit District (WRTD). WRTD currently operates out of an inadequate leased administration facility with outside bus storage on Ash Street in Willimantic.

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The present schedule indicates that final design plans will be available in December 2012. The funding source (state, federal, or state/federal) has not been determined at this time.

It is the Department's policy to keep the public informed and involved when such projects are undertaken. It is important that the community share its concerns with us to assist in the projects development. If there is adequate interest, an informational meeting will be conducted. At this time, it is not anticipated that a formal public hearing will be necessary.

Anyone interested in receiving information on this project may do so by contacting Mr. Scott A. Hill, Manager of Bridges and Facilities, at (860) 594-3272 or by e-mail at scott.hill@ct.gov. Please make reference to the Construction of the Windham Regional Transit District Bus Facility.



WINDHAM BUS FACILITY
PROJECT 474-0073
MANFIELD, CT
3/2012

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Spring 2012

Volume XVI, Issue 2

64th ANNUAL CONFERENCE

How to best address the changes to a land use agency's bonding authority for subdivisions and site plans was the topic addressed at this year's conference. With the passage of Public Act 11-79, the State legislature and the Governor changed long established rules as to when and what type of performance bond needed to be posted by a developer. Many planning, zoning and planning & zoning commissions have been left with uncertainty as to what they could require of a developer. Those members in attendance at the Aqua Turf were offered information and some possible solutions.

Chris Wood of Wood Planning Associates presented an informative and entertaining program on the implications of Public Act 11-79 and what some municipal land use agencies have addressed it and what we can expect in the next legislative session as to possible amendments to the public act. Chris was particularly well suited to make this presentation as he is also the government relations chair and legislative liaison for the Connecticut Chapter of the American Planning Association.

The Federation's sincere appreciation and thanks to Chris for providing a well received and informative presentation. If you were unable to attend the conference and would like to obtain a copy of the presentation materials, please send a message to us at cfpza@live.com and we will get them to you.

In addition, the 64th Annual Conference featured the presentation of 18 length of service awards by the meeting's moderator, Tom McGowan, planning consultant to numerous towns, land trusts and organizations. He is also a past Executive Director of the Northwest Connecticut Council of Governments. In addition, he presented the following devoted public servants with the Lifetime Achievement Award which is awarded to individuals with 25 or more years of service to member agencies. They were: Duane Starr of the Avon Planning and Zoning Commission, James L. Sennett of the East Hampton Planning and Zoning Commission, Alicia Wayland of the Lebanon Zoning Board of Appeals, Ann Keating of the City of New London Zoning Board of Appeals and Barclay Prindle of the Sharon Planning and Zoning Commission.

COURT ORDER NEEDED TO INSPECT PRIVATE PROPERTY

Alerted to a possible zoning violation, a zoning enforcement officer attempted to inspect a parcel of property. The property owner refused entry to the zoning official to her property. No evidence of a zoning violation was visible as a fence had been erected shielding from view portions of the property. The zoning official then consulted with the town attorney, who filed a request for a temporary and permanent injunction with the court. The purpose of the injunction would be

Written and Edited by
Attorney Steven E. Byrne
790 Farmington Ave., Farmington CT 06032
Tel. (860) 677-7355
Fax. (860) 677-5262

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Spring 2012

Volume XVI, Issue 2

to obtain a court order against the property owner that she not interfere with the zoning official's inspection of her property. The court granted the request, leading to an appeal by the property owner that ended up at the State Supreme Court.

The trial court approved the injunction because both the town zoning regulations and state law provide a zoning official with the right to inspect and remedy any zoning violation. The court was not concerned that the only evidence of a zoning violation was a telephone call to the zoning official asking that he inspect the property for a possible violation. The Supreme Court was troubled with this decision as it would authorize a search of private property without the normal safeguards afforded by the federal constitution that citizens be free from unreasonable searches and seizures. As with other searches of private property by government officials, an investigation for zoning violations by a zoning official, if not consented to by the property owner, requires judicial authorization – a search warrant.

In obtaining a search warrant, probable cause that a zoning violation has occurred will need to be presented to a court. Only then will a warrant be issued and a search of private property for zoning violations allowed. However, if the property owner consents to the search, then no warrant is needed. While this process can be burdensome, it does provide protection to zoning enforcement officers from being sent off

on wild goose chases, inspecting properties on the basis of little more than an anonymous tip. See Bozrah v. Chmurnyski, 303 Conn. 676 (2012).

CHANGE TO ZONING REGULATIONS CAN CHANGE TAX STATUS OF LAND

A planning and zoning commission had amended its zoning regulations, redefining what could be considered open space. The Plaintiff owned an undeveloped parcel of land within an industrial zone. For over 30 years it was assessed as open space. Due to the zoning amendment, the tax assessor reclassified the plaintiff's property from open space to industrial. The plaintiff appealed claiming he had a vested right to the open space classification which should not be effected by a change in the zoning regulations.

The sole basis for the change in tax classification was the change to the zoning regulations. The court ruled that this is a valid basis for the tax assessor to change the tax classification of the property. One reason for this is that the statutory scheme for planning and zoning, such as section 8-23 of the General Statutes, specifically provide that the plan of conservation and development be amended every ten years and that the amendment may include changing what areas are designated as open space. In addition, the zoning regulations themselves provide that they will be amended from

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CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

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time to time in order to address changes to the community.

Finally, the court looked to CGS sec. 12-207e(a) which provides that open space designation for a parcel can be lost if the property owner sells the property or puts the land to a different use. Thus, the open space designation is not static and can be affected by an amendment to the zoning regulations. It should be noted that an appeal of the tax assessment can be made to the municipality's Board of Assessment Appeals which would provide due process protection to the affected property owner. See Machholz v. Town of Bloomfield, 53 Conn. L. Rptr. 32 (2012).

ACTUAL CHANGE TO A PERMITTED USE NEEDED TO EXTINGUISH NONCONFORMING USE

A parcel of property located in a residential use district had been used historically as a rooming house and later as a bed and breakfast establishment. This use predated zoning. Sometime after zoning was in effect, the bed and breakfast building burned down. For a period of 2 to 3 years, the town owned the property and contemplated various uses for it, such as a public library. The town subsequently sold the parcel to a private owner who re-opened the bed and breakfast business. Abutting owners complained to the zoning enforcement officer about noise and traffic coming from this business. A cease and desist

order was issued which was appealed to the Zoning Board of Appeals.

The Board found that the cease and desist order had been issued in error as the bed and breakfast use was a nonconforming use and had not been abandoned. On appeal to court, the Board's decision was affirmed as the record supported the finding of no abandonment of the nonconforming bed and breakfast use. While the use had been suspended due to the fire, no other actual use had been made of the parcel. The mere contemplation of other uses was not enough to extinguish the nonconforming use. See Barton v. Zoning Board of Appeals, 52 Conn. L. Rptr. 553 (2011).

ANNOUNCEMENTS

Membership Dues

Notices for this year's annual membership dues were mailed March 1, 2012. The Federation is a nonprofit organization which operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the firm of Byrne & Byrne, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

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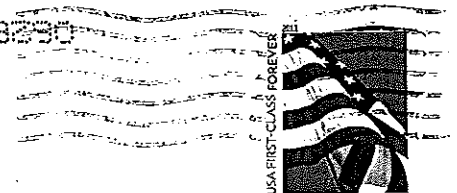
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CNP Spring 2012 Workshops

REMINDER! May Land Use Workshops

There are four workshops left in the Community and Natural Resources Planning Program's spring series. These workshops are a great opportunity to learn about innovative tools and techniques that can help your town plan for its future.

Space is limited and registration is on a first come, first served basis. See below for details and online registration.

Questions? Contact Susan Westa @ susan.westa@uconn.edu or 860-774-9600, ext. 24

Northwestern CT

Economic Development Planning - Paula Stahl

DATE: May 8th @ 7 PM

*** NEW LOCATION:** NWCT Chamber of Commerce

Affordable Housing - Bruce Hyde

DATE: May 17th @ 7 PM

LOCATION: UConn Torrington

SEE BROCHURE

REGISTER ONLINE

Southeastern CT

Win-Win of Subdivision Design - Paula Stahl

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Using CLEAR Web Tools for Local Planning - C

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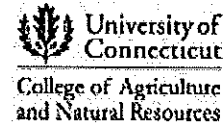
DATE: May 30th @ 7 PM

LOCATION: All Workshops at Southeastern CT Council of Governments

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REGISTER ONLINE

CLEAR is a collaboration of the Department of Extension, Department of Natural Resources and the Environment, and Connecticut Sea Grant Program.



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